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Transcript of John Lucas

Date: March 11, 2022

Case: Krasno -v- Board of Regents of University of Wisconsin, et al.

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Transcript of John Lucas
Conducted on March 11, 2022

1 (1 to 4)

1	IN THE UNITED STATES DISTRICT COURT 2 FOR THE WESTERN DISTRICT OF WISCONSIN 3 -----X 4 MADELINE KRASNO, : 5 Plaintiff, : Case No.: 6 v. : 21-CV-00099-SLC 7 BOARD OF REGENTS OF THE : 8 UNIVERSITY OF WISCONSIN, : 9 et al., : 10 Defendants. : 11 -----X 12 13 VIDEOTAPED DEPOSITION 14 JOHN LUCAS 15 CONDUCTED VIRTUALLY 16 FRIDAY, MARCH 11, 2022 17 10:05 a.m. CST 18 19 Job No.: 436365 20 Pages 1 - 149 21 Reported by: APRIL REID 22 23 24 25	1 A P P E A R A N C E S 2 3 ON BEHALF OF DEFENDANTS BOARD OF REGENTS 4 OF THE UNIVERSITY OF WISCONSIN, et al.: 5 LYNN LODAHL, ESQ. 6 STEVEN C. KIRKPATRICK, ESQ. 7 Assistant Attorney Generals 8 Wisconsin Department of Justice 9 409 E. Main Street 10 Madison, WI 53703 11 (608) 257-0040 12 13 ALSO PRESENT: 14 MADELINE KRASNO, Plaintiff 15 CRAIG FISHER, ESQ., UW 16 JOSEPH TORREZ, Remote Technician 17 ROBERT LEONARD, Videographer 18 19 - - - - - 20 21 22 23 24 25	3
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	4

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2 (5 to 8)

EXHIBITS			5	EXHIBITS			7
Plaintiff	DESCRIPTION	PAGE		Plaintiff	DESCRIPTION	PAGE	
Exhibit 57	Screenshot of the page settings for Facebook, Bates No. UW0002	45		Exhibit 76	Microsoft Teams chat message, Bates No. UW0415	139	
Exhibit 58	University of Wisconsin Social Media Statement, Bates No. UW0001	50		Exhibit 77	Microsoft Teams chat message, Bates No. UW0774	141	
Exhibit 59	Memo regarding interim social media moderation guidance, Bates No. UW0076	56		Exhibit 78	Microsoft Teams chat message, Bates No. UW0378	143	
Exhibit 60	E-mail chain, Bates No. UW0397-'398	70		Exhibit 79	Microsoft Teams chat message, Bates No. UW0696	145	
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Exhibit 62	E-mail chain, Bates No. UW0026	87					- - - - -
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Exhibit 64	Instagram comments, Bates No. UW0341	101					
Exhibit 65	Instagram comments, Bates No. UW0313	106					
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EXHIBITS			6	PROCEEDINGS			8
Plaintiff	DESCRIPTION	PAGE		THE VIDEOGRAPHER:	Here begins video file number 1 in the video deposition of John Lucas in the matter of Krasno vs. Board of Regents of -- Board of Regent University of Wisconsin, et al., in the United States District Court for the District -- for the Western District of Wisconsin, Case No. 21-CV-00099 SLC.		
Exhibit 66	Facebook comments, Bates No. UW0297	108.		Excuse me. One moment. Excuse me.			
Exhibit 67	Facebook comments, Bates No. UW0317	109		I'm -- I apologize. It's SLC.			
Exhibit 68	Facebook comments, Bates No. UW0218	114		Today's date is March 11, 2022. The time on me video monitor is 10:05 a.m. Central Time.			
Exhibit 69	Email chain, Bates No. UW0730	118		My name is Robert Leonard. I'm the video specialist. I represent Planet Depos.			
Exhibit 70	Microsoft Teams Chat texts, Bates No. UW0429	120		This deposition is being taken via Zoom online.			
Exhibit 71	Text message, Bates No. UW0396	123		Will counsel please identify themselves verbally and state who they represent.			
Exhibit 72	Microsoft Teams message, Bates No. UW0449	126		MS. FARLEY: Jessica Farley, on behalf of plaintiff, Madeline Krasno.			
Exhibit 73	Microsoft Teams message, Bates No. UW0688	132		MS. LODAHL: Assistant Attorney General Lynn Lodahl, on behalf of defendants. I'm representing the witness, John Lucas.			
Exhibit 74	Memo Regarding Interim Social Media Moderation Guidance, dated 2-7-22	134					
Exhibit 75	Text messages, Bates No. UW0716	136					
			25				

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3 (9 to 12)

	9		11
1	MR. BERRY: Christopher Berry on behalf	1	Otherwise, I will assume that you have understood
2	of plaintiff.	2	the question.
3	THE VIDEOGRAPHER: The court reporter	3	And lastly, please let me know if you
4	today is April Reid. She also represents	4	need to take a break, use the restroom. The only
5	Planet Depos.	5	thing I ask is that if there's a question pending,
6	Will the court reporter please swear in	6	you finish answering the question before we take
7	the witness.	7	that break.
8	THE COURT REPORTER: Good morning,	8	A. I understand.
9	Mr. Lucas. If you will please raise your	9	Q. Do you understand these rules?
10	right hand.	10	A. Yes.
11	THEREUPON:	11	Q. Okay. Great.
12	JOHN LUCAS	12	Did you review any documents in
13	being first duly sworn or affirmed to	13	preparation for your testimony today?
14	testify to the truth, the whole truth, and	14	A. Yes.
15	nothing but the truth, was examined and	15	Q. And just very generally, what did you
16	testified as follows:	16	review?
17	THE COURT REPORTER: Thank you, sir.	17	A. I was given a box/folder of documents
18	We may begin.	18	that related to mainly e-mail records.
19	EXAMINATION	19	Q. Okay. Okay. I'd like to go over your
20	BY MS. FARLEY:	20	background and your employment history.
21	Q. Good morning, Mr. Lucas. My name is	21	And I know you've worked for UW for
22	Jessica Farley, and I represent Plaintiff Madeline	22	quite some time, so let's start before -- you
23	Krasno in this matter.	23	know, let's start with your first position after
24	Now, you have just been sworn in. Do	24	college.
25	you understand that you are under oath?	25	A. Prior to my UW employment?
	10		12
1	A. I do.	1	Q. Yes.
2	Q. And that this has the same significance	2	A. Yes.
3	as if you were testifying in a court of law before	3	So my first job, I was a newspaper
4	a judge or a jury?	4	reporter at a newspaper outside Chicago called the
5	A. Yes.	5	Aurora Beacon.
6	Q. Okay. Have you ever been deposed	6	Following that, I was a newspaper
7	before?	7	reporter in Memphis, Tennessee at a newspaper
8	A. I have.	8	called the Commercial Appeal.
9	Q. How many times?	9	And then I joined UW Madison in 2001.
10	A. I believe once or twice.	10	Q. Okay. Okay.
11	Q. Okay. Okay. Just to refresh your	11	And what was your position at UW Madison
12	memory, I'm going to go over some of the	12	in 2001?
13	deposition ground rules.	13	A. It was called the University Relations
14	As the technician mentioned, please	14	Specialist in the office of University
15	allow me to finish my question before you start an	15	Communications.
16	answer, and I'll try to let you finish before	16	Q. Okay. And what did your job duties
17	proceeding with the next question, just so that we	17	entail in that position?
18	don't talk over each other; and it helps the court	18	A. Mainly, working with media, writing news
19	reporter when she's transcribing.	19	releases, and covering student issues and student
20	Please answer in yes or no form instead	20	affairs.
21	of uh-huh or uh-uh or by moving your head, shaking	21	Q. Did it have any relationship to social
22	your head, as that won't be picked up on the	22	media?
23	transcript.	23	A. There really wasn't social media in
24	And if I ask a question and you don't	24	2001.
25	understand it, please ask me to rephrase.	25	Q. Okay. Okay. And then, what was your

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4 (13 to 16)

	13		15
1 next position at UW Madison?		1 Q. Okay. Okay.	
2 A. I mean, technically, then I -- I gained		2 And then, moving along to your next	
3 a different title, called Senior University		3 position.	
4 Relations Specialist, which had, you know, added		4 A. Sure.	
5 responsibilities with many of the same things that		5 I became an Interim Director of	
6 I had just described.		6 Communications and then sort of full Director of	
7 Q. Okay. Okay.		7 Communications, overseeing university	
8 And what were the added		8 communications.	
9 responsibilities?		9 Q. Okay. And is that your current	
10 A. Working on more complex issues and media		10 position?	
11 requests and more service to the vice chancellors		11 A. Somewhere along the way, then they	
12 and the -- the chancellor.		12 changed my title, then, to Assistant Vice	
13 Q. Okay. Okay.		13 Chancellor of Communications and Chief	
14 And then, what was your next position?		14 Communications Officer.	
15 A. So there were a series.		15 Q. Okay. Okay.	
16 I served in a role where I managed		16 Can you describe for me your day-to-day	
17 internal communications for UW Madison.		17 job duties?	
18 Basically, you know, sending newsletters to -- to		18 A. Sure.	
19 faculty and staff, would have been the next one.		19 I mean, similar to the things that I	
20 Q. Okay. And then, moving along to the		20 described before, I oversee the production of news	
21 next position?		21 content, research communications, internal	
22 A. From there, then I added duties that		22 communications, issues, media relations, crisis	
23 included photo and video oversight. And then,		23 communications, photo, social, video production,	
24 around that time, was sort of the early beginnings		24 our Alumni Magazine and then our executive	
25 of social media, which we were starting at the		25 communications function.	
	14		16
1 institution; and at that point, I think I became		1 Q. Okay. Okay.	
2 an assistant director of communications.		2 So, yeah, you've got quite a few hats	
3 Q. Okay. And approximately, what date was		3 that you're filling, it sounds like.	
4 that?		4 And right now in your current position,	
5 A. Roughly, like 2008, I think.		5 are you in charge of social media moderation	
6 Q. Okay. Okay.		6 decisions?	
7 And then, moving along from there.		7 A. I oversee the staff that conduct	
8 A. Yeah.		8 those -- that -- those activities.	
9 Moving on, then the next role would have		9 Q. Okay. And who would that be?	
10 been the Director of News & Media Relations, which		10 A. Sure.	
11 was sort of overseeing mainly our content that we		11 Mike Klein and then Nate Moll.	
12 produce, you know, at the institution; working		12 Q. Okay. Thank you.	
13 with media more closely, overseeing, you know,		13 So how many employees report directly to	
14 responses to media, records requests and other		14 you?	
15 complex issues.		15 A. I oversee a staff of about 25, but I	
16 Q. Okay. Okay.		16 have, I think, seven staff that report directly to	
17 And did that involve social media as		17 me.	
18 well?		18 Q. Okay. And would Nate Moll report	
19 A. At that time, that would have over --		19 directly to you?	
20 continued to oversee social media.		20 A. No.	
21 Q. Okay. And when you say "oversee social		21 Q. Okay. And what about Mike Klein?	
22 media," like were you someone that was consulted		22 A. Yes.	
23 on moderation decisions?		23 Q. Okay. Okay.	
24 A. I would have been in that time period,		24 Now, which departments in -- at the	
25 yes.		25 University have responsibility for overseeing the	

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5 (17 to 20)

	17	
1	University's social media accounts on Facebook and	1 button, so to speak, to -- to hide a comment or to
2	Instagram?	2 block a user, for example?
3	A. University Communications.	3 A. I have access to the university's
4	Q. Okay. Okay.	4 Facebook account. I don't think I currently have
5	Does each department have its own page	5 access to the university's Instagram account. And
6	on Facebook or Instagram, however?	6 it would be very rare that I would moderate a
7	A. Like departments across the university?	7 specific comment on a post.
8	Q. Yes.	8 Q. Okay. Have you ever had occasion to
9	A. Many do, yes.	9 elevate decision making on whether or which
10	Q. Are they responsible, the departments	10 posts -- I should say, which comments by the
11	themselves, for moderating those communications on	11 public should be moderated to your superiors?
12	the -- their pages?	12 Have you ever had occasion to do that?
13	A. That's correct.	13 A. No.
14	Q. Okay. Now, switching back to your	14 Q. Okay. And who would you get involved if
15	position, who do you report to?	15 you had to do -- if you had a question on
16	A. My supervisor is Charles Hoslet, who is	16 moderating a specific comment?
17	the Vice Chancellor for University Relations.	17 A. I -- I wouldn't typically need to
18	Q. Okay. Now I want to go back and kind of	18 consult the vice chancellor or the chancellor
19	dig in a little bit to your job duties,	19 about moderating a -- a specific post, if that
20	specifically as it relates to overseeing social	20 answers your -- your question.
21	media moderation.	21 Q. Okay. So, in essence, you would be able
22	Do you ever -- does your position ever	22 to make that decision?
23	entail you reviewing social media posts?	23 A. I would make it or if I felt like I had
24	A. That other staff would have made	24 a question, I would probably consult with our
25	essentially? Like, reviewing their posts or --	25 attorneys.
	18	
1	Q. Or --	20
2	A. Can you clarify a little bit?	1 Q. Okay. Okay.
3	Q. Sure. Absolutely.	2 Has your oversight of content moderation
4	That other staff would have made or that	3 changed at all as a result of this lawsuit?
5	the public would have commented on in terms of on	4 A. No.
6	the specific post made by the staff.	5 Q. Okay. And has -- in your opinion, has
7	A. My role would mainly be consulting with	6 comment moderation, in general, by the university
8	staff on what types of content were going to be	7 changed as a result of this lawsuit?
9	shared on what types of accounts.	8 A. No.
10	It would be very rare that I would go	9 Q. Okay. And why would you say that?
11	back into a post and then actively review comments	10 A. I mean, over time we followed guidelines
12	and moderate them.	11 that the university has created around content
13	Q. Okay. So if Nate Moll had a question on	12 moderation.
14	moderating a post, or Mike Klein, would that be	13 More recently, and I don't recall how
15	something they would bring to you?	14 long ago it was, but we were given additional
16	A. It would be much more frequent that I	15 interim guidance by our Office of Legal Affairs,
17	would consult with them about the types of content	16 that provided new guidance for us to follow.
18	and the different posts that we would be making	17 Q. Okay. Okay.
19	and deciding which accounts to -- to place them	18 Now, switching gears a bit -- we'll talk
20	on.	19 about that guidance a little bit later, but I
21	I could be asked those questions about	20 wanted to talk about: What are the
22	moderation, but I would say it's very rare.	21 responsibilities of the Director of Research
23	Q. Okay. Okay.	22 Communications?
24	And if a moderation needs to be made,	23 A. Sure.
25	you're not the one who is pushing the actual	24 Kelly Tyrrell is -- or up until

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6 (21 to 24)

	21		23
1 staffing -- is the Director of Research		1 little bit.	
2 Communications. She would generally be		2 Q. I believe this is Exhibit 50.	
3 responsible for working with faculty members, in		3 And it looks like the title here of the	
4 creating news releases and posts about, you know,		4 e-mail is regarding a PFP comment moderation	
5 papers or studies that were conducted about the		5 issue. And it relates to the moderation of	
6 institution, answering media requests about the		6 comments on social media.	
7 research enterprise, and dealing with any issues		7 Would that be a fair characterization of	
8 that occurred in that space.		8 what you see here on the screen?	
9 Q. Okay. And does that position fall under		9 A. Yes.	
10 the Communications Department?		10 Q. Okay. And in response to receiving this	
11 A. Yes.		11 e-mail -- you can see in the second chain there --	
12 Q. Does Ms. Tyrrell report to you?		12 you forward it to Kelly Tyrrell who, as we spoke	
13 A. Yes.		13 before, is the Director of Research	
14 Q. Okay. Now, when you say that research		14 Communications; is that correct?	
15 commun-- you said Research Communications. Is		15 A. Correct.	
16 that an umbrella for things that involve animal		16 Q. So you looped her in on a discussion	
17 research?		17 about social media moderation. And why is that?	
18 A. Yes.		18 A. I -- I don't specifically recall the --	
19 Q. Okay. Does Ms. Tyrrell have any role in		19 the context of this issue.	
20 moderating social media postings or comments by		20 Q. Do you typically loop her in on things	
21 the public?		21 to do with potential moderation discussions?	
22 A. Not in a day-to-day way, no.		22 A. I mean, she generally does not conduct	
23 Q. Okay. What about her staff?		23 moderation, but we share information through our	
24 A. Also not in a day-to-day capacity.		24 office on a variety of issues.	
25 Q. Okay. And when I refer to her "staff,"		25 Q. Okay. Okay.	
	22		24
1 I -- I believe Chris Barnard is another		1 It looks like -- so it kind of looks	
2 individual. Is he a direct report to Ms. Tyrrell?		2 like, from this e-mail, that the Research	
3 A. Yes.		3 Communications group does have some role or some	
4 Q. Okay. And what is his official title?		4 need to know to be looped in on moderation; is	
5 A. I'm sorry. We just changed all of our		5 that fair?	
6 titles.		6 A. The Research Communications office had	
7 I believe his -- his official title is		7 supported our COVID response, and Kelly was a key	
8 science writer or communications specialist.		8 person who functioned as sort of our number 2 or	
9 Q. Okay. Okay. But he generally falls		9 number 3 person in dealing with anything from	
10 under the Research Communications umbrella?		10 promotion of vaccines to mask wearing.	
11 A. Correct.		11 So, again, I don't specifically recall	
12 Q. Okay.		12 what this issue was, but it would not have	
13 MS. FARLEY: Joe, could you pull up		13 necessarily exclusively been a Research	
14 UW0066, please.		14 Communications discussion.	
15 REMOTE TECHNICIAN: Please stand by.		15 Q. Okay.	
16 Counselor, that was 0006?		16 A. Especially in this time period.	
17 MS. FARLEY: 0066.		17 Q. Okay. Now, just in general, how is the	
18 REMOTE TECHNICIAN: 0066. I apologize.		18 Research Communications group involved in	
19 (Exhibit 50 was marked for		19 responding to, for instance, social media comments	
20 identification and is attached to the		20 that are critical of animal testing?	
21 transcript.)		21 A. I think that's a better question for --	
22 BY MS. FARLEY:		22 for probably Mike and Nate, whether they're	
23 Q. Okay. We have in front of us a		23 consulted.	
24 document. It looks like it's been marked --		24 Again, I think we shared, you know,	
25 MS. FARLEY: If you could scroll up a		25 information across a small office with some	

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	25		27
1 regularity, but it's not my sense that they would		1 A. I recall in a more specific context that	
2 be conducting that activity on a regular basis.		2 Ms. Krasno held either an event or events	
3 Q. Okay. Okay.		3 advancing her views of animal research that the	
4 MS. FARLEY: Joe, could you pull up		4 research community would have been apprized of and	
5 UW0082, please.		5 potentially shared -- I'm sorry, that the Research	
6 REMOTE TECHNICIAN: Stand by.		6 Communications group would have been apprized of	
7 (Exhibit 51 was marked for		7 and potentially shared out further to people who	
8 identification and is attached to the		8 manage animal research on campus.	
9 transcript.)		9 Q. Okay. Okay.	
10 MS. LODAHL: Okay. Could we make the		10 MS. FARLEY: Joe, could you pull up	
11 image just a bit bigger. I'm having trouble		11 UW0039, please.	
12 reading it on my screen.		12 REMOTE TECHNICIAN: Counselor, there is	
13 MS. FARLEY: Absolutely.		13 a 39(1) and a 39 without a (1). So, there is	
14 Is that a little bit better --		14 a 39 with a 1 in parentheses and one without.	
15 MS. LODAHL: Yes.		15 MS. FARLEY: Oh. Just the first one.	
16 MS. FARLEY: -- or should we zoom in		16 Just the 0039 without the 1.	
17 more?		17 REMOTE TECHNICIAN: Yes, ma'am. Thank	
18 MS. LODAHL: That's fine. Thank you.		18 you.	
19 MS. FARLEY: Sure.		19 (Exhibit 52 was marked for	
20 BY MS. FARLEY:		20 identification and is attached to the	
21 Q. So, okay, right in front of us looks		21 transcript.)	
22 like we have an e-mail that says, forward,		22 MS. FARLEY: Thank you.	
23 "Primate Research-Facebook Complaint."		23 BY MS. FARLEY:	
24 Is that correct?		24 Q. Now, here is -- it looks like an e-mail	
25 A. Yes.		25 forward. The title is "Madeline Krasno's	
	26		28
1 Q. And it looks like Meredith receives this		1 Newspaper Coverage."	
2 from a Danielle -- I'm sorry, Denise Hickey, but		2 Is that correct?	
3 then forwards it to both yourself and Kelly		3 A. Yes.	
4 Tyrrell to address; is that correct?		4 Q. And it looks like it's from Nadine P.	
5 A. Yes.		5 Connor, and she forwards it to Rachel Jeris in the	
6 Q. Now, what happened with this particular		6 Office of Legal Affairs, and she then forwards	
7 response, do you recall?		7 that then to yourself and Kelly Tyrrell; is that	
8 A. I don't recall, and nor do I -- I'm		8 correct?	
9 sorry, I don't recall what this complaint was.		9 A. Correct.	
10 Q. Okay. I'll represent to you it was a		10 Q. So it looks like Ms. Tyrrell was looped	
11 complaint on Reddit that UW was hiding comments		11 in on conversation regarding Ms. Krasno and	
12 critical of primate research.		12 potential, you know, media coverage; is that fair?	
13 Does that jog your memory at all?		13 A. Yes.	
14 A. No. I'm sorry.		14 Q. Okay. Now, why would Ms. Tyrrell need	
15 Q. Okay. Okay.		15 to be looped in on something like this?	
16 Does your team ever communicate about		16 A. So when the suit was brought, it	
17 the plaintiff in this suit, Ms. Madeline Krasno?		17 generated publicity. And so I would say	
18 A. I'm aware at a certain point that there		18 university communications was in the position of	
19 was communication about Ms. Krasno. I don't		19 not only being responsible for the, you know,	
20 recall whether there was anything in this specific		20 Facebook and Instagram accounts at issue in the	
21 post that would have related to her or not.		21 suit, but we also worked closely with researchers	
22 Q. Okay. Does your team ever communicate		22 who are both involved in animal research	
23 about Ms. Krasno with the Research Communications		23 activities and then, as you can see, Professor	
24 group at all, such as about, like, moderating a		24 Connor, and those who are involved in the	
25 post?		25 infrastructure for the research of animal research	

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	29		31
1 community.		1 to scroll up just a little bit more to the	
2 So when there was publicity and media		2 middle e-mail.	
3 attention about the suit, people were asking,		3 BY MS. FARLEY:	
4 particularly Kelly and Chris Barncard who you		4 Q. And Kelly Tyrrell responds, "Thank you	
5 mentioned earlier, for information about what was		5 for sharing this, Jordana. And I'm sorry you have	
6 happening.		6 to deal with this kind of language and content.	
7 Q. Okay. So, fair to say, that when it		7 You might consider reporting this to Facebook for	
8 involves something relating to animal testing or		8 a possible violation of community standards," and	
9 something scientific related to, for instance,		9 then the web page, the web URL. "And barring	
10 crit- -- criticism of the animal testing, that		10 that, I think you'd be well within reason to	
11 Kelly Tyrrell is looped in?		11 delete posts that advocate or suggest violence."	
12 A. Yes.		12 Did I read that correctly?	
13 Q. Okay. Does Ms. Tyrrell have any		13 A. Yes.	
14 particular training in social media moderation?		14 Q. Okay. So it appears Ms. Tyrrell, in the	
15 A. I'm not aware that there is training		15 chain, suggests a potential moderation of a	
16 generally offered in social media moderation.		16 comment relating to animal research. Is that	
17 Q. Okay. Any -- have you ever had any		17 correct?	
18 discussions with her about the social media		18 A. Again, I'm not on the -- the e-mail	
19 statement that appears on UW Madison's web page?		19 chain.	
20 A. No.		20 Q. Is it a fair summary of Ms. Tyrell's	
21 Q. Okay. Let's see.		21 e-mail that she's suggesting a moderation of a	
22 MS. FARLEY: Joe, could you bring up		22 Facebook post?	
23 UW0525, please.		23 A. Yes, I guess.	
24 REMOTE TECHNICIAN: Please stand by.		24 Q. Okay.	
25 (Exhibit 53 was marked for		25 MS. FARLEY: Now, Joe, could you pull up	
	30		32
1 identification and is attached to the		1 UW0029, please.	
2 transcript.)		2 REMOTE TECHNICIAN: Please stand by.	
3 Q. Okay. And this is an e-mail chain. It		3 And, counselor, there is a 0029(1) and a	
4 begins with some -- Cherise, M. Caradine, and		4 0029(2).	
5 she's at the WNPRC.		5 MS. FARLEY: Either one. They're both	
6 MS. FARLEY: Joe, could you scroll down		6 the same. Whenever you see that, it's just a	
7 a little bit. It actually begins with		7 duplicate.	
8 Jordana Lenon at the WNPRC.		8 REMOTE TECHNICIAN: Thank you.	
9 And then if you want to scroll up,		9 MS. FARLEY: Uh-huh.	
10 actually.		10 (Exhibit 54 was marked for	
11 Q. It appears that the WNPRC received some		11 identification and is attached to the	
12 negative or perhaps even "inciteful" comments. Is		12 transcript.)	
13 that what this appears to be discussing?		13 MS. FARLEY: Do you mind zooming in on	
14 A. I'm not actually on this e-mail chain.		14 this a little bit.	
15 Q. Right. And I -- I recognize that.		15 BY MS. FARLEY:	
16 I just wanted to confirm that this		16 Q. We have what's been marked as	
17 document is discussing that there's -- I guess,		17 Exhibit 54. This appears to be a snippet of a	
18 I'll just say: The subject line of Cherise's		18 Microsoft Teams discussion, I believe. And it	
19 e-mail is regarding, quote, "not a direct threat		19 says, "Post by John Lucas, February 18th, 2021."	
20 but inciteful language on our WNPRC Facebook		20 And you ask Meredith -- I'm assuming --	
21 page."		21 is that Meredith McGlone?	
22 Is that accurate?		22 A. Correct.	
23 A. That's what the subject line says, yes.		23 Q. Okay.	
24 Q. Okay.		24 -- that you'd like to be notified of	
25 MS. FARLEY: And then, Joe, if you want		25 anything else coming in media-wise on the ALDF	

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9 (33 to 36)

	33		35
1 suit, and you'd also like Kelly to be notified. 2 Why would you like Kelly to be notified? 3 A. So this is back to my earlier comment, 4 that both -- you know, we were named as defendants 5 in the suit, but we have continuing 6 responsibilities to the UW Madison research 7 community, and specifically those affiliated with 8 the animal program. 9 I think the idea here was to ensure 10 that -- you know, we would give short statements 11 about the suit, particularly in the media, on 12 advice of counsel, but we were reserving the 13 ability to continue to provide information in 14 support of our animal program, which is very 15 important to the institution. 16 Q. Okay. So in this instance, you wanted 17 to amplify or promote the animal program or pro 18 animal testing, I would say, in support of the UW 19 animal program; is that fair?		1 MS. FARLEY: Joe, could you pull up the 2 document entitled Binder 1-0021. 3 REMOTE TECHNICIAN: Counselor, I have -- 4 Counselor, I have binder 1-21. Is that the 5 one you're referring to? 6 MS. FARLEY: Yes. Thank you. 7 (Exhibit 55 was marked for 8 identification and is attached to the 9 transcript.) 10 BY MS. FARLEY: 11 Q. Okay. This has been marked as Exhibit 12 55, and it looks like an e-mail chain entitled, 13 "Re: Request for Comment Campus Reform." 14 Is that accurate? 15 A. Yes. 16 Q. Okay. And Rebecca Blank, the Chancellor 17 of the University, asks Charles Hoslet to 18 formulate a response from the Request for Comment 19 from Campus Reform. 20 And then Mr. Hoslet forwards it to you 21 and asks you to take care of it; is that correct? 22 A. Yes. 23 Q. Okay. And in response, you communicate 24 about Kelly Tyrrell and Chris Barncard. And I 25 guess, we've already discussed who Mr. Barncard	
20 A. Yes. 21 I mean, we want to continue to provide 22 accurate information about UW Madison's animal 23 program even -- or to internal audiences or to the 24 media as it even -- again, following the advice of 25 counsel in how to respond to the media on the	34		36
1 suit, if that makes sense. 2 Q. Yes. 3 Is it fair to say that you wanted to 4 ensure that the discussion of the animal program 5 and the animal testing was positive? 6 A. I would say that it's our goal to always 7 ensure that discussion about the animal program is 8 truthful and accurate. 9 Q. Okay. Would you say you were supporting 10 and promoting the animal program? 11 I guess, in your words -- it says you 12 were making comments in support of the animal 13 program overall; is that correct? 14 A. Yes. 15 Q. And that's versus the viewpoint of, you 16 know, anti-animal testing, such as views held by 17 plaintiff Madeline Krasno; is that correct? 18 A. I would say, again, trying to be -- 19 provide accurate information to the public in 20 relation to anything else that's shared. 21 Q. Okay. Would you characterize your 22 statement here as being pro animal testing? 23 A. Again, I would characterize my statement 24 in support of accurate information. 25 Q. Okay. Okay.		1 is. 2 So you kind of loop in and elevate this 3 request to two people that are assigned to 4 research matters at the University; is that 5 correct? 6 A. Yes. 7 Q. Now, at the end of the chain, 8 Ms. Tyrrell states that the statement is going out 9 by request and on behalf of the chancellor. 10 Is that accurate? 11 A. This would be how a media request is 12 handled. Whoever receives it, we would typically 13 have a statement or some information that we would 14 provide to the requester. 15 Q. Okay. And then -- 16 A. I don't -- I don't know if this was, you 17 know, specifically in the chancellor's name or 18 voice. This would just be an institutional 19 statement. 20 Q. Okay. But according to Kelly, she said 21 it was on behalf of the chancellor here? 22 A. That's what she represents. 23 Again, this would be sort of standard if 24 a media member sent a request for comment about a 25 particular issue.	

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10 (37 to 40)

	37		39
1 Q. Okay. Now let's take a look at the 2 actual statement.		1 I'm sorry -- 0454 to 0456, but I do not have 2 0455.	
3 MS. FARLEY: So, Joe, if you could 4 scroll down a couple of pages.		3 MS. FARLEY: Oh, okay. I believe -- 4 let's try that 0454, and I believe that 5 should contain 455.	
5 Okay. And here's the actual statement. 6 Thank you for zooming in.		6 No. This is not actually the document. 7 Do you mind if I chat you the document?	
7 Q. Now, in this statement, it says that the 8 presence of all these valuable animals and people 9 on campus is vital to research that can help 10 improve the lives of so many. And that's in the 11 second paragraph.		8 REMOTE TECHNICIAN: Yes. Yes, ma'am. 9 That's totally fine.	
12 Do you see that?		10 MS. FARLEY: Okay.	
13 A. Yes.		11 REMOTE TECHNICIAN: You can send it 12 directly to me via chat.	
14 Q. Okay. And, in fact, the statement on 15 behalf of the chancellor says that it would be 16 unethical to ignore the many ways animal research 17 can help people and animals.		13 MS. FARLEY: Okay. It should be in the 14 chat. I think this is the one.	
18 Is that accurate?		15 REMOTE TECHNICIAN: Please stand by. (Exhibit 56 was marked for identification and is attached to the transcript.)	
19 A. Yes.		19 MS. FARLEY: Okay. Yes, this is 20 correct. Thank you very much.	
20 Q. The third paragraph.		21 REMOTE TECHNICIAN: Uh-huh.	
21 Okay. Would you characterize this 22 statement as being pro animal testing?		22 BY MS. FARLEY:	
23 A. We would believe that this is accurate 24 information about the animal program that is 25 conducted at the University. I guess, you know,		23 Q. Okay. So what we have here, it looks 24 like a screenshot of a -- and I'll note for the 25 record this has been marked Exhibit 56.	
	38		40
1 accurate, and it would support the continued use 2 of animal model at UW Madison, yes.		1 We have a screenshot of a Microsoft 2 Teams chat and there's 11 participants, it looks 3 like, but on the screen you can see comments from 4 Mike Klein, yourself, and Nate Moll; is that 5 correct?	
3 Q. Okay. So is it -- it's fair to say that 4 based on this e-mail exchange and, you know, the 5 process of coming up with this statement, that 6 Ms. Tyrrell and Chris Barncard, from the research 7 arm of things, assists you in providing 8 information to respond to, for instance, critiques 9 of the animal program; is that accurate?		6 A. Yes.	
10 A. Yes.		7 Q. Okay. Now, you mentioned that you once 8 started a conversation with some of the pro badger 9 people in the UK, and it's incredibly intense, 10 political issue that involves animal rights. And 11 then you use an emoji that's kind of a grimace; is 12 that correct?	
11 Q. Okay. And is it fair to say that their 12 job is to support, provide a statement or 13 communications on behalf of the university that 14 support the university's animal testing program?		13 A. Yes.	
15 A. Yes.		14 Q. Why did the mention of animal rights 15 cause you to grimace and use that emoji?	
16 Q. Okay.		16 A. Yeah.	
17 MS. FARLEY: Joe, could you please pull 18 up UW0039, please.		17 What I was describing was an instance 18 from several years ago when I would have operated 19 the institutional Twitter account, and I believe 20 there was an issue in the UK that involved what I 21 believe was described at that point as a badger 22 cull, which I think was essentially -- and I'm -- 23 I don't recall all these details, but sort of a 24 widespread kind of herding of -- of badgers in 25 England because of a disease that they carried.	
19 REMOTE TECHNICIAN: Please stand by.			
20 MS. FARLEY: Actually, scratch that.			
21 Could we go to UW0455. Apologies.			
22 REMOTE TECHNICIAN: That was 0455?			
23 MS. FARLEY: Yes.			
24 REMOTE TECHNICIAN: Okay. Stand by.			
25 Counselor, I have 054 and then to 05 --			

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11 (41 to 44)

1 **And I remember engaging in a conversation with**
2 **someone who was a -- a person who is a badger**
3 **supporter in England which, at the time, I didn't**
4 **understand or know very much about the issue.**

5 UW Madison -- obviously, its mascot is
6 badger. And so, you know, this would have been
7 several years ago. But we engaged in a social
8 media direct message exchange that explained what
9 their situation was.

10 But as I mentioned, it -- it's,
11 obviously, extremely political in England and
12 extremely intense.

13 And I remember after, you know, just
14 asking a question or two, getting dozens of direct
15 messages from the -- the person that I was
16 corresponding with.

17 Q. Okay. So based on this, would you say
18 that animal -- animal rights are -- you know, in
19 this instance, animal badger killing, is a
20 political issue, as you state here?

21 A. This specific instance in the UK over
22 this particular badger cull, yes, it was a -- a
23 political issue there.

24 Q. Would you say that animal testing is a
25 political issue or a topic of public concern?

1 A. Yes.

2 Q. Okay. Does the topic of animal rights
3 make you uncomfortable or do you have a negative
4 view of it?

5 A. No, I don't -- I do not personally.

6 Q. Do you have any personal beliefs
7 about -- or opinions about the testing at -- on
8 animals at UW institutions or elsewhere?

9 A. I am generally supportive of UW
10 Madison's animal program because, you know, I
11 understand the information that we share to the
12 public as being accurate and true.

13 Q. Okay. So is it fair to say that you're
14 pro animal testing?

15 A. I guess that's fair.

16 Q. Okay. And UW Madison, it's fair to say,
17 is a pro animal testing institution; is that also
18 correct?

19 A. I think that's fair, yes.

20 Q. Okay. And back to the document itself.
21 In Exhibit 56, it looks like towards the end of
22 the chat, Mike Klein says that, quote, "Chris
23 Barncard cleaned [sic] out those animal rights
24 messages for us."

25 If you know, what did Mike mean by

41

1 "cleared out"?

2 A. I -- I don't know in this instance.

3 Q. Could it perhaps refer to some sort of
4 moderation?

5 A. Best to ask Mike. I wouldn't want to
6 speculate.

7 Q. Okay. And in this instance, it looks
8 like Chris Barncard was involved in moderating
9 social media on behalf of the university; is that
10 accurate?

11 A. That appears to be what the -- the chat
12 would suggest, yes.

13 Q. Okay. And again, he's in the Research
14 division of the Department of Communications?

15 A. Correct.

16 Q. Okay. Do you know if those messages
17 were targeted for moderation because they were
18 about the topic of animal rights?

19 A. I -- I don't know what messages we're --
20 we're referring to here. No.

21 Q. Okay. Okay.

22 It seems like Mike Klein here is saying,
23 "I haven't dived into our direct messages in a
24 week, but I see the animal rights folks haven't
25 let up a bit."

42

1 And Chris Barncard -- and then he also
2 then states, "Chris Barncard cleared out those
3 animal rights messages for us."

4 So, fair to say that the moderation was
5 directed at animal rights comments?

6 A. I -- again, best to ask Mike.

7 Q. Okay.

8 MS. FARLEY: Joe, could you go ahead and
9 pull up 0 -- UW002, please.

10 (Exhibit 57 was marked for
11 identification and is attached to the
12 transcript.)

13 Q. Okay. This document has been marked as
14 Exhibit 57. And this appears to be a screenshot
15 of the page settings for Facebook. And is this
16 for the UW Madison account, presumably, if you
17 know?

18 A. I'm having kind of a hard time seeing
19 it. If it can be magnified.

20 REMOTE TECHNICIAN: Which area of the
21 document would you like magnified?

22 THE WITNESS: The -- sort of the middle.

23 A. Yeah. So to your question, yes, this
24 looks like these are account settings from the
25 UW Madison Facebook page.

43

Conducted on March 11, 2022

	45		47
1 Q. Okay. Now, for instance, is this a -- a 2 list of topics that UW Madison automatically 3 moderates?		1 were on topic if they used any of these words?	
4 For instance, you know, it says, "Hash 5 tag Fire Chief Roman, Biden, evers, Walker, Trump, 6 Donald Trump, Jr., animal testing, testing on 7 animals, animal research," et cetera.		2 A. I believe so, yes.	
8 A. So it's my memory of this area that 9 users would frequently -- in support of different 10 causes or topics, would essentially spam the page 11 with such a high number of comments on certain 12 topics that it would essentially prevent other 13 users from -- you know, on-topic posts, from 14 asking questions or engaging otherwise with the 15 university.		3 Q. Okay. So practically speaking, how can 4 people express their views on animal testing if 5 the words "animal testing" are automatically 6 blocked?	
16 Q. Okay. But are these topics that are 17 automatically moderated as off limits, for 18 example?		7 A. I -- yeah, I don't really have an 8 answer.	
19 A. Yes.		9 Q. Is it fair to say that they could not 10 express their views on animal testing if the words 11 are automatically blocked?	
20 Q. Okay. Would you agree that these 21 automatic moderations prevent someone from 22 commenting on these topics?		12 A. Again, I defer to sort of Nate on how 13 the auto moderation would work.	
23 A. Yes.		14 Q. Do you think that this list of auto 15 moderation words gives people much room to 16 advocate their views on particular topics, such as 17 primates or animal testing when "primates," 18 "experimenting," "animal testing," are all 19 automatically blocked?	
24 Q. Okay. Can you explain to me how auto 25 moderation works, in your own words?		20 A. I think people have many different 21 routes to express their views on these topics with 22 the institution.	
1 A. I am not an expert in auto moderation, 2 no.	46	23 Q. Are you referring to non-social media 24 ways to express their views?	
3 Q. Okay. Okay.		25 A. I mean, I -- I think both through social	
4 Would that be something that is more 5 appropriate for Nate Moll?		1 media and non-social media routes.	48
6 A. I -- yeah, I would defer to Nate on -- 7 on how those specific processes work.		2 Q. If the words "animal testing" or 3 "testing on animals" are blocked, how could a 4 particular user post a comment on UW's site, even 5 if it was on topic, for example?	
8 Q. Okay. Now, who came up with the topics 9 that are listed -- or the content that's listed 10 here?		6 A. Again, I would defer all the auto 7 moderation specifics to Nate.	
11 A. I don't specifically recall how this 12 list was built.		8 Q. Is it your understanding that auto 9 moderation prevents these words from appearing in 10 a particular post?	
13 Q. Is it possible it was left up to Nate 14 Moll's discretion on handling the moderation for 15 the university?		11 A. Yes.	
16 A. My belief is probably that these were 17 topics that were off topic to post but were 18 frequently essentially spamming the page with some 19 frequency, in an effort -- so you can see some of 20 the different sites or petitions that were being 21 shared, to essentially allow us to, you know, 22 continue normal use of the page when these were 23 being spread on top of it.		12 Q. Okay. I want to switch gears a little 13 bit and talk about your training.	
24 Q. Okay. So practically speaking, would 25 these auto moderations also block comments that		14 MS. FARLEY: We can remove the exhibit.	
		15 Q. What relevant training have you received 16 about social media, specifically?	
		17 A. I'm not really aware that there is a lot 18 of training offered for social media.	
		19 Q. Okay. And when you say "a lot of," is 20 there any?	
		21 A. I have not received formal training in 22 social media.	
		23 Q. Okay. Have you received any formal 24 training in the First Amendment?	
		25 A. Not that I can recall.	

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13 (49 to 52)

1 Q. Okay. I'd like to move on to the social
2 media policies or -- I shouldn't say "policies" --
3 statement, the university's official statement.

4 MS. FARLEY: If, Joe, you could pull up
5 UW001, please.

6 REMOTE TECHNICIAN: Please stand by.
7 (Exhibit 58 was marked for
8 identification and is attached to the
9 transcript.)

10 MS. FARLEY: Thank you.

11 BY MS. FARLEY:

12 Q. And this document has been marked
13 Exhibit 58. So what you see in front of you
14 appears to be a screenshot of the university's
15 social media statement.

16 Is that accurate?

17 A. Correct.

18 Q. Okay. Are you familiar with this
19 statement?

20 A. Yes.

21 Q. Okay. Would you say that it accounts
22 for the university's official policy on social
23 media?

24 A. The university doesn't have what we
25 would consider an official policy on social media.

49

51

1 guidance that we -- we used for content
2 moderation.

3 Q. Okay. And when you say "until
4 recently," are you referring to a memo issued by
5 the Office of Legal Counsel or Legal Affairs?

6 A. Correct.

7 Q. Okay. Okay.

8 Do you believe that this statement
9 provides adequate notice to the public of what --
10 which comments may or may not be permissible or
11 deleted?

12 A. I worked with -- we all worked with our
13 Office of Legal Affairs to create this statement.

14 Q. Okay. And would you agree that it
15 allows UW Madison to remove, quote, "any content
16 for any reason"?

17 A. Correct.

18 Q. Okay. Now, did you ever provide a copy
19 of this statement to those that you supervise?

20 A. I don't specifically recall training or
21 onboarding with Nate or Mike, but I believe we
22 would have discussed this approach before they
23 engaged in moderation.

24 Q. Now, when you say "discussed this
25 approach," can you kind of describe for me what

50

52

1 The university has, like, a guiding statement on
2 social media, which is what you're -- you're
3 referencing.

4 Q. Okay. Do you know why there is no
5 policy?

6 A. In my time sort of overseeing social
7 media, we've always essentially put focus into
8 creating content, sharing content, building a
9 social media community, but policy development is
10 complex and time consuming and rather than go
11 through, like, a -- a lengthy process that was
12 essentially kind of overwhelming to the small
13 staff that we had in place, we worked with our
14 legal office to create a -- a guiding statement.

15 Q. Okay. And is the guiding statement what
16 you are referring to?

17 Is that on the screen here as
18 Exhibit 58?

19 A. Yes.

20 Q. Okay. And is this how you -- is this
21 what you use or is this what your staff uses, I
22 should say, to ensure, when moderating comments,
23 that no persons or comments are singled out for
24 moderation based on a particular viewpoint?

25 A. Until recently, this would have been the

1 you mean by that?

2 A. I mean, we would have discussed this
3 statement as they moved into roles that oversaw
4 social media.

5 Q. Okay. Can you recall any specific
6 conversations about this?

7 A. I mean, just that we would have
8 discussed, you know, the social media statement
9 and the approach to content moderation as part of
10 their onboarding as employees in social media.

11 Q. Okay. Have there been any revisions to
12 this statement since you've been with the
13 university?

14 A. There is the additional interim guidance
15 from the Office of Legal Affairs. That would have
16 come across, I believe, in the last year.

17 Q. Does that supersede the social media
18 statement?

19 A. That would be the -- the practice of our
20 office, to follow guidance from our Office of
21 Legal Affairs.

22 Q. Okay. In lieu of following the social
23 media statement or would you follow both?

24 A. I mean, I -- again, we would sort of
25 defer to interim guidance that we received.

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14 (53 to 56)

	53		55
1	Q. Okay. Okay. To your knowledge, has the	1	A. Not that I recall.
2	university ever considered revising this	2	Q. Did anyone ever ask you to clarify what
3	statement?	3	any part of the statement meant?
4	A. I don't recall.	4	A. Not that I recall.
5	Q. What about adding to it or replacing it?	5	Q. Okay.
6	A. I -- I don't have a recollection of	6	MS. FARLEY: You guys want to take a
7	that, no.	7	quick 10-minute bathroom break and we can go
8	Q. And just switching gears a little bit.	8	back on the record at 11:22?
9	Are there university employees that are	9	THE WITNESS: Sure.
10	dedicated to reviewing the content of social media	10	MS. LODAHL: That sounds good.
11	posts? Like, for instance, Nick Heynen. I think	11	MS. FARLEY: Okay. Great.
12	his title is social media and website specialist.	12	THE VIDEOGRAPHER: We're going off the
13	A. Because of the -- the wide range of	13	record at 11:12 a.m. Central Time.
14	demands on Nate's time, we started a group chat of	14	(Recess in proceedings.)
15	others who had posting responsibilities or	15	THE VIDEOGRAPHER: We're going back on
16	otherwise had some expertise in social media.	16	the record at 11:22 a.m. Central Time.
17	They would generally consult together on different	17	MS. FARLEY: Thank you.
18	posts and strategies for where we would share	18	Welcome back, Mr. Lucas.
19	content.	19	Joe, if you could go ahead and pull up
20	Q. Okay. Would you say Mr. Heynen was	20	UW0076, please.
21	response -- one of those persons responsible for	21	REMOTE TECHNICIAN: Okay.
22	looking at the content of social media postings or	22	(Exhibit 59 was marked for
23	social media comments?	23	identification and is attached to the
24	A. I would say that he was a participant in	24	transcript.)
25	a group chat. He was not, and is not, a	25	MS. FARLEY: Okay. Thank you.
	54		56
1	university communications employee. So he -- he	1	BY MS. FARLEY:
2	participated, I think, in those discussions. It	2	Q. We see here what has been marked as
3	wouldn't have been his formal job duty.	3	Exhibit 59. It's entitled -- it's a memo, and it
4	Q. Okay. What is Mr. Heynen's department?	4	is regarding interim social media moderation
5	A. I believe he works in the Division of	5	guidance.
6	Diversity.	6	Is that accurate?
7	Q. Okay. Okay.	7	A. Correct.
8	Now, would you say -- is Nate Moll	8	Q. Okay. And I believe this is what you
9	responsible for reviewing the content of social	9	were referencing a little bit earlier to when you
10	media comments on the university's institutional	10	were talking about the -- when we were in the
11	web pages?	11	context of discussions regarding the social media
12	A. Yes.	12	statement; is that accurate?
13	Q. Okay. Now, in this social media	13	A. That's accurate, yes.
14	statement, it says that the university can remove	14	Q. Okay. Now, we -- this was addressed to
15	speech that is injurious. What does that mean to	15	you and Charles Hoslet.
16	you, if you know?	16	Are you familiar with this statement?
17	A. I would defer to -- to Nate and how he	17	A. Yes.
18	specifically applied that term.	18	Q. Okay. Now, it's entitled "Interim
19	Q. So it's more up to his discretion?	19	Social Media Moderation Guidance."
20	A. Again, I -- I don't think I've	20	Is there permanent social media
21	specifically discussed the word "injurious" with	21	moderation guidance that's going to be
22	him.	22	forthcoming?
23	Q. Did you ever ask anyone to clarify	23	A. It's -- I think a plan in the future
24	anything about the statement for you or what any	24	to -- to create permanent social media guidance,
25	part of the statement meant?	25	yes.

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15 (57 to 60)

	57		59
1	Q. And would that be a policy of some sort	1	Q. And who was that?
2	or would it be more along the lines of another	2	A. Nate and Mike.
3	memo?	3	Q. Okay. Do you recall having any
4	A. It hasn't been formulated yet, so I	4	discussions with them about it?
5	can't answer that specifically.	5	A. Yes.
6	Q. Okay. Okay.	6	Q. And what were the nature of those
7	So as with the social media statement,	7	discussions?
8	in conjunction with the social media statement and	8	A. I think it centered around the -- sort
9	this interim social media moderation guidance, do	9	of the locus of the -- the guidance on topic and
10	you believe that employees have enough assistance	10	off topic.
11	in determining what is constitutionally	11	Q. Okay. Okay.
12	permissible in terms of social media moderation of	12	And were they asking for clarification
13	postings by the public?	13	or what was -- what was discussed?
14	A. I believe this guidance is -- is helpful	14	A. I think simply sharing the document
15	for people to both accomplish their function and	15	15 and -- and talking about the "on topic" versus
16	also observe the First Amendment.	16	16 "off topic" approach to content moderation.
17	Q. Okay. So you believe it's -- it's	17	Q. Okay. Was that something that was new
18	adequate to ensure protection of the public's	18	18 to Nate or Mike?
19	First Amendment rights?	19	A. I mean, obviously, we had applied --
20	A. Yes.	20	20 they had applied the criteria that was in the
21	Q. Now, do you recall why you received this	21	21 social media statement. I think this gave a -- a
22	memo?	22	22 rule of thumb that was easy to -- to apply.
23	A. Not specifically.	23	Q. Okay. Has this guideline undergone any
24	I know, you know, this topic has,	24	24 revisions, to your knowledge?
25	obviously, been one that's been in the air, you	25	A. Yes, I believe there is an additional
	58		60
1	know, since the -- the filing of the suit; and,	1	1 revision that was shared from the Office of Legal
2	you know, I believe there had been additional	2	2 Affairs within just the last few months. And I
3	3 requests that had come from either our office or	3	3 believe it specifically dealt with blocking users
4	4 from other campus accounts to the office of legal	4	4 on Twitter, if I recall.
5	5 affairs for additional guidance.	5	Q. Okay. Okay.
6	Q. Okay. Okay.	6	MS. FARLEY: Counsel, do you know if
7	A. I did not specifically make a request	7	that was produced in this litigation? I
8	for it, I believe, but I believe they were	8	don't recall reviewing such a document.
9	9 responsive to what they -- they had been	9	MS. LODAHL: I don't recall either. I
10	10 receiving.	10	suppose if it's related to -- I don't --
11	Q. Okay. Okay.	11	I'm -- I don't believe it has been produced.
12	So, perhaps, the social media statement	12	I'd have to take a look at this document
13	wasn't quite broad enough to cover some of the	13	that John is referencing to see if it's
14	situations they were encountering in particular	14	responsive to any of your requests.
15	moderation instances?	15	MS. FARLEY: Okay. Would you mind doing
16	A. I think that's your own conjecture.	16	that at -- whenever you get a chance?
17	Q. You had mentioned there had been	17	MS. LODAHL: You bet.
18	requests for additional guidance. Is that a fair	18	MS. FARLEY: Okay. Great. Thank you.
19	statement of your testimony?	19	BY MS. FARLEY:
20	A. I believe the Office of Legal Affairs	20	Q. Were you consulted or otherwise -- yeah,
21	received questions, yes.	21	I should just say consulted, in the creation of
22	Q. Okay. Okay.	22	this guidance?
23	Now, did you provide a copy of this	23	A. No.
24	guideline to those over whom you supervised?	24	Q. Okay. Now, this is entitled "Guidance."
25	A. Yes.	25	Is -- to your knowledge, is compliance

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16 (61 to 64)

	61		63
1	mandatory?	1	Q. Okay. So it's not -- is compliance
2	A. We would follow guidance from the Office	2	then -- it's not mandatory that the post be
3	of Legal Affairs; but, again, it's guidance, and	3	removed, but it's at the discretion of maybe the
4	it isn't -- it hasn't gone through sort of a	4	individual media -- social media moderator?
5	formal policy review, which would be a more formal	5	A. That's correct.
6	kind of statement or document.	6	Q. Okay. Now, either before or after this
7	Q. Okay. And when this guideline refers	7	guidance was issued, have you ever contacted
8	to, quote, "social media managers," who is that	8	anyone in the Office of Legal Affairs to discuss a
9	referring to?	9	specific social media post?
10	A. In -- my most direct view would be the	10	A. I have not.
11	direct reports that I have who oversee social	11	Q. Have you ever contacted anyone else,
12	media accounts for UW Madison.	12	like Charles Hoslet, to discuss a specific social
13	Q. Okay. So primarily Mike and Nate, would	13	media comment?
14	that be --	14	A. No.
15	A. Yes.	15	Q. Okay. To your knowledge, has anyone you
16	Q. Could it also be referring to managers	16	supervised ever contacted the Office of Legal
17	of, like, the page for the Department of History,	17	Affairs regarding a specific social media comment?
18	for example, or other department pages?	18	A. Again, better for -- for Nate and Mike
19	A. Yes.	19	to -- to answer that question directly.
20	Q. Okay. Now, the guideline indicates that	20	Q. To your knowledge, are you aware that
21	the purpose of each media page is, quote, "to	21	they have or have not?
22	discuss information and developments related to a	22	A. I -- we've sought advice from the Office
23	specific department, lab, organization, and	23	of Legal Affairs on, like, a wide range of -- of
24	et cetera."	24	25 different questions, so it's -- yes, it's entirely
25	Is that an accurate statement of what	25	possible that we -- we might have sought guidance
	62		64
1	the document says?	1	from them on this as well.
2	A. Yes.	2	Q. Okay. Now, what does -- the guideline
3	Q. So if a post does not discuss	3	here, or the guidance here references viewpoint.
4	information or developments related to a specific	4	And what does that mean to you in this context?
5	department, lab, or organization, is it your	5	A. I'm sorry. Can you point to the
6	understanding that the post must be removed?	6	specific paragraph?
7	A. I'm sorry. I don't understand your	7	Q. Yeah.
8	question.	8	MS. FARLEY: Maybe we need to scroll
9	Q. Sure. Let me rephrase it.	9	down a little bit.
10	So each page exists for a designated	10	Q. So this particular paragraph that starts
11	purpose, according to this policy, and it's to	11	with, "While social media managers may
12	discuss information related to that department or	12	moderate..." "...they may not moderate..." and
13	organization or lab.	13	"...based on the viewpoint it expresses."
14	Is it your understanding that if the	14	What does the word "viewpoint" in that
15	post or -- I'm sorry, I should use the word	15	context mean to you?
16	"comment."	16	A. Yes.
17	If the comment that is made by a -- for	17	I -- I think it means whether or not we
18	instance, a member of the public does not relate	18	would specifically agree with the point of view
19	to that purpose, is it your understanding that the	19	being expressed by the -- the commenter.
20	comment must be removed?	20	Q. Okay. Okay.
21	A. I see.	21	And in this guideline, it refers to
22	I see the second line as saying, social	22	removing social media posts and hiding social
23	media managers may remove posts --	23	media posts.
24	Q. Okay.	24	MS. FARLEY: I don't think it's visible
25	-- or comments.	25	on the screen here. Maybe we can zoom out a

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	65		67
1	little bit.	1	So in terms of auto moderation -- so
2	REMOTE TECHNICIAN: I'm sorry,	2	you -- you basically said it hasn't changed after
3	Counselor. Is there a location that you	3	the issuance of the guideline. Do you know
4	would like me to zoom in on?	4	whether any new terms have been added to the auto
5	MS. FARLEY: I'm looking for where it's	5	moderation feature?
6	talking about removing or hiding social media	6	A. I don't know.
7	posts. And it says -- I think it's the	7	Q. Okay. Now, the second sentence in the
8	paragraph that starts -- the fourth paragraph	8	auto moderation sentence says, "If social media
9	down, "While social media managers may	9	managers are using auto moderation tools to filter
10	moderate a post because it is off topic..."	10	content other than profanity, please have them
11	Thank you.	11	contact Rachel Jeris or Craig Fischer in OLA."
12	BY MS. FARLEY:	12	Is that correct?
13	Q. This paragraph discusses the fact that a	13	A. Yes.
14	social media manager may hide a post saying	14	Q. Would you agree that the -- Nate Moll
15	"Taylor Swift is the B0mB," but cannot hide a post	15	and the university's settings are auto moderating
16	that states, "Taylor Swift agrees that all	16	content other than just profanity?
17	universities should stop torturing animals and	17	A. Yes.
18	[sic] using them for research."	18	Q. Do you know whether Nate Moll or Mike
19	And it also -- you know, there's a	19	Klein sought guidance from Rachel Jeris or Craig
20	difference between hiding and removing a post.	20	Fischer in OLA?
21	And how is that done, in your experience?	21	A. We're typically in touch with Rachel
22	What is the difference between the two?	22	Jeris and Craig Fischer in OLA, although I didn't
23	A. I -- I am not the one pushing the button	23	specifically participate in that conversation
24	on these particular comments, so I would defer to	24	about auto moderation with them.
25	Nate in terms of how that's -- that's actually	25	Q. Okay. Do you know if Nate Moll inquired
	66		68
1	managed.	1	about auto moderation?
2	Q. Okay. Okay.	2	A. Best question for Nate.
3	I want to ask a little bit about auto	3	Q. Okay. So -- let's see.
4	moderation. And that is discussed --	4	MS. FARLEY: If you could scroll up a
5	MS. FARLEY: If you wouldn't mind	5	little bit, Joe, that would be helpful. I'm
6	scrolling down, Joe, a little bit. Just to	6	sorry, scroll down. Thank you.
7	the auto moderation section. Perfect.	7	Q. Okay. So this section is entitled
8	Q. Has auto moderation changed after the	8	"Providing additional information."
9	issuance of this guideline?	9	And it says that, you know, "To the
10	A. No. I believe auto moderation -- excuse	10	extent that users post on-topic content that is
11	me -- auto moderation has stayed the same.	11	inaccurate, misleading or critical of UW Madison
12	And I believe we were advised by counsel	12	or its sub units, social media managers may
13	to basically not change our -- our broad practices	13	respond with a reply or make a separate post."
14	after the -- the filing of the -- the lawsuit.	14	Do you know if you have ever, or Nate or
15	MS. LODAHL: And I'm going to interject,	15	Mike ever, responded to a critique of the animal
16	just to caution the witness that any	16	testing program with a reply or a separate post?
17	conversations with counsel are privileged, so	17	A. So I -- I would think yes, that they
18	please do not provide answers that include	18	have probably replied in the past with accurate
19	that content.	19	information to a critique of the animal program,
20	THE WITNESS: Understood.	20	yes.
21	BY MS. FARLEY:	21	Q. Okay. So this is an option -- the
22	Q. Yes. And I will just also reiterate, I	22	university has the option of directly engaging or
23	do not want to hear about any attorney-client	23	putting out its viewpoint on animal testing by
24	privileged communications. So just with that	24	replying to the comment or putting a separate
25	understanding, as I go over this memo with you.	25	post; is that accurate?

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18 (69 to 72)

	69		71
1	A. Yes.	1	of the comment that was made?
2	Q. Okay. Do you use any third-party	2	A. My reading of that is whether it was on
3	resources or guidelines or anything similar that	3	topic or off topic. It's saying "unrelated to the
4	guide your handling of social media in addition to	4	post on which it was made."
5	the social media statement and this policy -- I'm	5	Q. Okay. Okay.
6	sorry, this guidance memo?	6	Is this standard a different one than
7	A. No.	7	than the one that's set forth in the
8	Q. Okay. And other than what we've	8	guidance memo or the social media statement?
9	discussed, and perhaps that document relating to	9	A. I believe that this is consistent with
10	Twitter that you mentioned previously, is there	10	the social media statement that we discussed
11	any other writing that in any way contributes to	11	earlier.
12	your moderation decisions for social media posts?	12	Q. Okay. Okay.
13	A. No.	13	And applying the standards more
14	Q. Okay.	14	stringently or strictly, if the content of the
15	MS. FARLEY: Joe, if you could pull up	15	comment is unrelated, do you believe that's
16	UW0397, please.	16	consistent with the statement and the Social Media
17	REMOTE TECHNICIAN: Please stand by.	17	Guidance?
18	(Exhibit 60 was marked for	18	A. I didn't write the comment from Chris
19	identification and is attached to the	19	Barncard, but -- and I am not looking at the
20	transcript.)	20	social media statement in front of me, but I
21	MS. FARLEY: Okay. This document has	21	believe that threatening, abusive, indecent and
22	been marked as Exhibit 60.	22	off topic are all included in the social media
23	And Joe, if you could zoom in maybe on	23	statement.
24	the top couple e-mail chains, that would be	24	Q. Okay. Okay.
25	helpful. Maybe a little more. Yeah. That	25	Now, just --
	70		72
1	would be great. It's a little small.	1	MS. FARLEY: We can remove this exhibit
2	BY MS. FARLEY:	2	from the screen. Thank you, Joe.
3	Q. Mr. Lucas, can you see that okay?	3	BY MS. FARLEY:
4	A. Better now, yeah.	4	Q. In general, do you view that the social
5	Q. Okay. Now, this is an e-mail chain that	5	media statement and the Interim Social Media
6	you are not, I don't believe, copied on here, but	6	Moderation Guidance Memo, do you think that those
7	I just wanted to ask you about it and get your	7	are adequate to ensure that moderation is
8	take.	8	viewpoint neutral in the eyes of a layperson?
9	Now, just going back, circling back to	9	A. Yes.
10	our discussion regarding Kelly Tyrrell and Chris	10	Q. Okay. And do you view it as adequate to
11	Barncard. Does Chris Barncard directly report to	11	ensure that particular comments aren't restricted
12	you or to Ms. Tyrrell?	12	because of the content that they are expressing or
13	A. To Ms. Tyrrell.	13	the viewpoint that they express?
14	Q. Okay. Okay.	14	A. Yes.
15	Now, it looks like Chris Barncard is	15	Q. Okay. Have you received any -- any
16	discussing a moderation decision on Facebook and	16	training on how to define off topic or how to
17	talking about, quote, "We do remove Facebook	17	define spam?
18	comments that are threatening, abusive and	18	A. Again, I'm not aware of what training
19	indecent -- and apply those standards more	19	is -- is available on those topics or that there
20	strictly if the content of a comment is unrelated	20	is training available on those topics.
21	to the post on which it was made."	21	Q. So do you know what standards that UW
22	Did I read that correctly?	22	employees use to determine when something is off
23	A. Yes.	23	topic or spam?
24	Q. So according to this, the university	24	A. I would apply the -- you know, the
25	applies a different standard based on the content	25	social media statement or the -- the interim

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19 (73 to 76)

	73		75
1 guidance policies.		1 that oversees University Communications.	
2 Q. Okay.		2 Q. Okay. Okay.	
3 A. Now, I am not aware of another resource		3 And do you know if there are any audits	
4 that specifically defines those in, you know, a		4 of how the social media statement or interim	
5 more granular way.		5 guidance are applied or enforced?	
6 Q. I'm sorry, I cut you off a little bit.		6 A. No, I -- I don't believe that there have	
7 Did you say you weren't aware of --		7 been audits.	
8 A. I'm not aware of an additional document		8 Q. Okay. Any compliance reviews?	
9 or resource that would -- would provide more		9 A. No.	
10 guidance on that, no.		10 Q. Can you give an example of a time, for	
11 Q. Okay. Okay.		11 whatever reason, a social media comment by the	
12 How would you personally define spam?		12 public was improperly moderate or blocked?	
13 A. I mean, off topic comments, you know,		13 A. No, I personally can't, no.	
14 is -- is defined in the interim guidance. I don't		14 Q. Okay. Do you know if there have been	
15 know.		15 posts that have ever been inappropriately	
16 I guess, I -- I have not really thought		16 moderated or blocked?	
17 of a -- a definition of spam. It's one of these		17 A. I don't spend time directly on	
18 things where I think typically we evaluate on a		18 content -- you know, review of content moderation,	
19 case-by-case -- case-by-case basis and try to		19 so I would defer to Nate or Mike.	
20 apply our best judgment.		20 Q. So it hasn't come to your attention that	
21 Q. Okay. Okay.		21 there's been any improper blocking?	
22 And the guidelines themselves, they do		22 A. No.	
23 not define spam; is that correct?		23 Q. Have you ever had any occasion to have	
24 A. That's correct.		24 to speak with or otherwise communicate with a	
25 Q. Okay. So you mentioned case-by-case		25 subordinate about their moderation practices being	
	74		76
1 basis and using the best judgment. It's -- it's		1 inconsistent with the policy or guidance?	
2 up to the individual employee who's doing the		2 A. No.	
3 moderation to make that decision and		3 Q. Has Nate Moll or Mike Klein -- have they	
4 determination?		4 ever expressed to you that they are running into	
5 A. I guess, just to clarify, are you asking		5 any situations in terms of moderation that they	
6 about how to determine whether something is -- is		6 don't feel comfortable handling because they don't	
7 on or off topic?		7 have enough guidance?	
8 Q. I was referring more to spam.		8 A. No.	
9 A. Right.		9 Q. Okay. And if anything, what more could	
10 Yeah, I -- I think it would be up to		10 University of Wisconsin-Madison do to help ensure	
11 the -- the employee to judge on a case-by-case		11 that you and those under your supervision do not	
12 basis.		12 improperly moderate a social media comment?	
13 Q. Okay. Okay.		13 A. I think that's what has been challenging	
14 Now, switching gears a little bit, I		14 about the social accounts. Over a period of time,	
15 want to talk a little bit about compliance.		15 it's just both the -- the high degree of -- or the	
16 Who is responsible for ensuring that the		16 large number of comments that were being received	
17 social media statement or the interim guidance is		17 and the fact that the university was in the middle	
18 complied with?		18 of trying to communicate with the public and	
19 A. I mean, generally that would be my		19 stakeholders about the pandemic, about, you know,	
20 responsibility or the responsibility of University		20 racial justice issues across, you know, 2020 and	
21 Relations as a whole.		21 2021. So the team, I'll say, has been -- is	
22 Q. Okay. And how does University Relations		22 probably overwhelmed by the -- the amount of tasks	
23 fit in?		23 that they were being asked to do. And then, you	
24 A. Charles Hoslet is the Vice Chancellor		24 know, the number of -- the sheer number of	
25 for University Relations. That's the umbrella		25 comments that have kind of been applied onto the	

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20 (77 to 80)

1 **accounts.**

2 Q. Okay. Is it fair to say that based on
3 the social media guidance memo we looked at
4 earlier, that a post that's off topic does not
5 have to be moderated, it can be moderated, but
6 it's up to the discretion of the individual
7 reviewing the post?

8 **A. That's correct.**

9 Q. Okay. Is it your understanding that a
10 public comment on the university's social media
11 pages on Instagram or Facebook could constitute
12 constitutionally-protected speech?

13 **A. Yes.**

14 Q. Okay. And, to your knowledge, are your
15 employees, your direct reports, aware that
16 moderating social media posts could conceivably
17 violate the First Amendment?

18 **A. I think my employees are aware of the
19 First Amendment and their obligations to preserve
20 the speech rights of people who engage with us on
21 social media, yes.**

22 Q. Okay. Now, to -- to the best of your
23 layperson's knowledge, what does the First
24 Amendment prohibit you from doing in relation to
25 moderation of social media?

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1 posted on any UW site?

2 **A. Not that I recall.**

3 Q. Before Ms. Krasno filed suit, did you
4 ever engage in any communication or were you
5 ever -- did you ever receive any communications
6 about Ms. Krasno?

7 **A. Not that I recall.**

8 Q. Okay. Were you aware of Ms. Krasno
9 before she started posting on UW's main Facebook
10 and Instagram accounts?

11 **A. No.**

12 Q. Okay.

13 MS. FARLEY: Joe, could you please pull
14 up UW0657.

15 REMOTE TECHNICIAN: Stand by.
16 (Exhibit 61 was marked for
17 identification and is attached to the
18 transcript.)

19 BY MS. FARLEY:

20 Q. Okay. This is -- has been marked as
21 Exhibit 61, and it's an e-mail exchange. And you
22 are not involved in the e-mail exchange.
23 Ms. Tyrrell and Mr. Barncard are, along with
24 Allyson Bennett and Nadine Connor.

25 Do you know -- oh. And -- I

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1 MS. LODAHL: I object to the extent that
2 it calls for a legal conclusion.

3 But the witness can answer as to his
4 layperson's understanding.

5 **A. I mean, I -- I generally understand the
6 First Amendment and the rights of free speech,
7 free expression, assembly, religion, redress of
8 grievances to the government.**

9 Q. In terms of specifically as it relates
10 to moderation, what's your understanding of how
11 the First Amendment impacts that?

12 **A. My understanding is that -- that posts
13 and comments, on-topic comments would constitute,
14 like, a limited public forum to engage with the
15 university and post comments.**

16 Q. Okay. Now, switching gears, I want to
17 talk a little bit about the plaintiff in this
18 lawsuit, Ms. Madeline Krasno.

19 Do you know who Ms. Krasno is?

20 **A. I am aware of who she is, yes.**

21 Q. And have you ever communicated directly
22 with Ms. Krasno?

23 **A. I have not.**

24 Q. Okay. Have you ever personally made a
25 decision to moderate anything that Ms. Krasno has

78

1 apologize -- as well, Jon Levine.

2 Do you know who Allyson, Nadine and Jon
3 are?

4 **A. Yes.**

5 Q. Could you give a brief description of
6 their roles?

7 **A. Sure.**

8 **I believe Jon Levine directs the primate
9 center, Nadine Connor directs the animal program
10 and the Office of the Vice Chancellor for Research
11 and Graduate Education, and Allyson Bennett has
12 served as a communications lead and spokesperson
13 in educating the public about the animal program.**

14 Q. Okay. Okay. Now, this particular
15 e-mail chain at the top from Christopher Coe --
16 and who is Christopher Coe?

17 **A. I don't know, actually. I believe a
18 faculty member.**

19 Q. Okay. Mr. Coe writes an e-mail on
20 September 16th, 2020, and it looks like this chain
21 is regarding Madeline Krasno and her time as a
22 student when she worked at the primate lab.

23 Do you know what current comments --
24 they're talking about Ms. Krasno's recent public
25 comments in the third -- I'm sorry, in the fourth

80

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21 (81 to 84)

1 paragraph down. It says, "Her recent public
2 comments have been more general about the ethics
3 of keeping animals in captivity rather than
4 specific incidents."

5 Do you see that?

6 **A. Yes.**

7 Q. Do you know what recent public comments
8 this e-mail is referring to?

9 **A. Not specifically, no.**

10 Q. Okay. I'll represent to you that in
11 UW's sworn responses to interrogatories, number --
12 Interrogatory No. 3, UW responded that the first
13 time it restricted Ms. Krasno's account on
14 Instagram was in late September of 2020.

15 So it looks like, to me, this particular
16 communication about Ms. Krasno occurred before
17 late September. So there was some chatter about
18 Ms. Krasno prior to the moderation decision on her
19 Instagram account.

20 Does that sound fair?

21 **A. I wasn't involved in either that
22 specific moderation decision or this thread that
23 you are asking about.**

24 Q. Okay. Okay.

25 Is -- so was Ms. Krasno's account -- we

81

83

1 Q. Okay. And was there concern about her
2 tagging UW in her Instagram posts?

3 **A. I would say yes, because I believe that
4 they were off-topic comments and they were
5 surfacing in front of a wide number of users.**

6 Q. Okay. Do you recall what was done about
7 that in that situation?

8 **A. I -- I don't recall any specific account
9 restriction discussion.**

10 Q. Was -- were the posts untagged, if you
11 know?

12 **A. I -- I don't know.**

13 Q. Okay. As far as you're aware, does the
14 University Communications Department approve of
15 Ms. Krasno's criticism of the animal labs and UW's
16 animal testing program?

17 **A. I mean, the office doesn't have an
18 opinion about Ms. Krasno or her activism.**

19 Q. Are you generally familiar with
20 Ms. Krasno's posts on social media, the nature of
21 them?

22 **A. Yes.**

23 Q. Okay. Do you consider Ms. Krasno's
24 comments on Facebook or Instagram to be
25 inappropriate?

82

84

1 **A. I believe there were comments that were
2 made that were off topic and where the -- both the
3 social media statement or the interim guidance
4 were applied.**

5 Q. Okay. Do you consider them to be -- do
6 you consider her comments to be in any way
7 unprofessional?

8 **A. What is like the -- I don't know what
9 "unprofessional" means.**

10 Q. Well, let's go at it from this way:
11 What -- would you consider any of her comments to
12 have been spam?

13 **A. I know that -- and, I guess, I wouldn't
14 restrict this opinion just to Ms. Krasno, but I
15 know that there were a large number of off-topic
16 posts that were -- I'm sorry -- off-topic comments
17 that were posted across a wide range of university
18 communications posts on Facebook and Instagram,
19 and that the volume of those posts, you know,
20 prevented other users from engaging with the
21 university or receiving information about our
22 programs or services.**

23 Q. Has Ms. Krasno ever made a threatening
24 post on Facebook or Instagram?

25 **A. I don't know.**

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22 (85 to 88)

	85		87
1	Q. What about a profane post?	1	Krasno talking about how excited she is to be
2	A. I -- I don't know.	2	co-hosting a workshop with Rise for Animals.
3	Q. Okay. How about obscene?	3	MS. FARLEY: And, Joe, if you could
4	A. I -- I didn't review her individual	4	scroll up a little bit, please. Thank you.
5	posts or content, so I can't really speak to it.	5	Q. So here, essentially Ms. Bennett is
6	Q. Okay. What about injurious or illegal?	6	alerting the Communications department by, you
7	A. Again, I don't know the answer to that.	7	know, forwarding this to Kelly Tyrrell, and you
8	Q. Okay. In violation of intellectual	8	and others on the e-mail chain, that Ms. Krasno
9	property rights or privacy laws?	9	will be hosting an on-line workshop. Is that
10	A. I don't know.	10	accurate?
11	Q. And what about commercial or promotion	11	A. Yes.
12	of organizations or programs not related to or	12	Q. Okay. And Kelly Tyrrell then thanks
13	affiliated with the university?	13	Ms. Bennett for bringing it to the group's
14	A. Again, I don't know.	14	attention; and she says she's going to copy Nate
15	Q. Okay. Okay. Have you ever had an	15	Moll, who runs a number of our institutional
16	occasion to be in contact with a student newspaper	16	accounts and also helps us monitor and respond to
17	group about Ms. Krasno?	17	18 campaigns.
18	A. I believe our office would have	18	So what exactly does that entail, when
19	responded to questions from the media, including	19	you monitor and respond to campaigns?
20	student newspapers.	20	A. Sure.
21	Q. Okay. Could you elaborate on that a	21	So it's been my experience over time,
22	little bit?	22	whether with this group or others, like PETA, that
23	A. Again, the function of our office would	23	there are different campaigns or sort of
24	be to answer questions from the media, you know,	24	particular areas of focus that they have that
25	whether it's about, you know, this particular	25	would manifest themselves, either from press
	86		88
1	lawsuit or whether it was about Ms. Krasno's	1	releases or things that they would send into the
2	activism.	2	media, or, you know, in other cases, you know,
3	Q. Okay. Okay.	3	campaigns that would, you know, basically try to
4	MS. FARLEY: Joe, could you go ahead and	4	generate a large number of users to, you know, tag
5	pull up Exhibit UW0026, please.	5	our posts. In other cases, we received, you know,
6	(Exhibit 62 was marked for	6	a large amount of unsolicited e-mail, for
7	identification and is attached to the	7	instance.
8	transcript.)	8	So generally, the institution likes to
9	BY MS. FARLEY:	9	be aware of these different campaigns from, you
10	Q. Okay. This document has been marked as	10	11 know, not only animal groups but others so,
11	Exhibit 62, and it's an e-mail exchange. It says,	11	ideally, we can prepare and provide information
12	"Re: Rise for animals-UW-Madison Social Media	12	13 about our activities in answer to their questions
13	Workshop."	13	14 or, frequently, in an effort to clarify
14	Is that accurate?	14	15 misinformation that's being spread about the
15	A. Yes.	15	institution.
16	Q. And the bottom chain is from Allyson	16	Q. Okay. Are any posts hidden simply
17	Bennett and it looks like to you, among other	17	because they are part of a campaign, for instance?
18	recipients, including Chris Barncard and Kelly	18	A. I don't believe so, no.
19	Tyrrell. And it's -- it says, "FWIW from AMP." I	19	Q. Are you of the opinion that Ms. Bennett
20	assume, that's "for what it's worth from AMP."	20	21 is an animal testing advocate, would you say?
21	What does AMP stand for, if you know?	21	A. I'm aware that she has been active on
22	A. I don't know exactly what that acronym	22	animal testing issues, yes.
23	is.	23	Q. Okay. And I'll represent to you that
24	Q. Okay. So it seems to be that this	24	her most recent Twitter post was promoting a
25	e-mail is forwarding something put out by Madeline	25	roundtable discussion in which she was to

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23 (89 to 92)

	89		91
1	participate to, quote, "Learn how to effectively	1	little bit.
2	advocate for your work in the face of increasing	2	Q. So it says, "Jordana, thank you for
3	threats to responsible primate research."	3	forwarding this on. We have had our intelligence
4	And I'll represent to you --	4	detectives monitoring activity and I have
5	A. I'm sorry. Just to clarify, who -- who	5	forwarded this to them. I have requested
6	are we speaking of specifically, Ms. Krasno?	6	additional information on the person who posted.
7	Q. No. Ms. Bennett, Allyson Bennett.	7	Since it is the weekend, they are out of the
8	A. Oh, yes. Okay. Sorry.	8	office, but I will link you in when I get
9	Just to revise, Allyson Bennett is a	9	additional information. Mark is the expert in the
10	faculty member and a spokesperson for the animal	10	social media area, so I will let him discuss that
11	program at UW Madison. So, yes, she is an	11	side of it."
12	advocate for the animal model here.	12	So, basically, Ms. Lenon is telling
13	Q. Okay. Okay.	13	people -- and telling the police, I should say,
14	And I'll represent to you she's a	14	that people are being inappropriate on the WNPRC's
15	chief -- chief contributor to the International	15	Facebook and Twitter pages relating to inciteful
16	Animal Research Advocacy Group, speaking of	16	comments, and she also had relate -- mentioned it
17	research, and those articles used to be regularly	17	was related to PETA allegations.
18	retweeted by UW-Madison Science's official Twitter	18	MS. FARLEY: Joe, could you scroll down
19	handle.	19	a little bit.
20	Do you ever recall anyone approaching	20	Q. So is that a fair characterization of
21	the Communications Department and requesting that	21	the situation that's going on in this e-mail
22	you more carefully scrutinize or moderate	22	exchange?
23	Ms. Bennett's posts about animal testing?	23	A. I mean, yes, with the caveat that I
24	Not that I recall, no.	24	wasn't on this thread and I'm not actually seeing
25	Q. Do you agree that viewpoint neutrality	25	the -- the comments or the attachments of what
	90		92
1	is important?	1	she's -- she's talking about.
2	A. Yes.	2	Q. Okay. Fair enough.
3	Q. Okay.	3	So -- and Ms. Lenon states in the bottom
4	MS. FARLEY: Let's go ahead and pull up,	4	paragraph here, "As the manager of a public
5	Joe, Exhibit UW0525, please.	5	university's center's social media sites, we are
6	REMOTE TECHNICIAN: Stand by.	6	not in the habit of selectively deleting comments
7	Q. Okay. And this is what has been marked	7	we don't like. Most of the likes and shares, even
8	as Exhibit 53. And it looks like an exchange here	8	on this issue, have been supportive ones, because
9	that -- another exchange that you are not copied	9	we posted the university's response, and it
10	on, but it involves Ms. Tyrrell and Chris Barnard	10	generated the most likes and shares when compared
11	and Jordana Lenon and Cherise M. Caradine.	11	11 to animal-rights-toned comments."
12	MS. FARLEY: And, Joe, if you could	12	She then states that back in 2017
13	scroll down a bit, that would be helpful.	13	negative comments became so frequent on an issue
14	Q. So it looks like Jordana Lenon is the	14	14 that she felt it was harassment, and so she banned
15	senior editor of Public Information and Outreach	15	15 the comments. And she appears to say that she may
16	for the WNPRC; is that right?	16	16 do it again.
17	A. Yes.	17	It sounds, to me, here that there are a
18	Q. Okay.	18	bunch of advocates on opposite sides of an issue
19	MS. FARLEY: And you can zoom out again,	19	19 with one side getting unhappy and banning the
20	Joe. Thank you.	20	20 other side when the negativity becomes too in--
21	Q. So it looks like Ms. Lenon forwarded or	21	21 too frequent.
22	sent an e-mail to some folks, Cherise Caradine and	22	Do you agree with that?
23	Mark Lovicott, who are both with the UW Madison	23	A. I -- I mean, I can't really speak to the
24	Police Department.	24	practice of a -- you know, another manager in a
25	MS. FARLEY: Could you, Joe, scroll up a	25	different arm of the institution.

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24 (93 to 96)

1 I -- I mean, the context to this
2 exchange, though -- I guess, I could say that I'm
3 personally aware of a number of instances where
4 activists have, you know, harassed and abused
5 university scientists, you know, probably both on
6 social media and in person, in real life, that
7 it's -- you know, it's caused the account manager
8 at the primate center to be in direct touch with
9 the University Police Department, you know, to
10 consult on safety and security.

11 Q. Okay. Has your department, to your
12 knowledge, ever used the police to investigate
13 individuals who have posted or commented on the
14 UW's official social media sites?

15 A. I -- I don't recall a specific instance,
16 but if we received what appeared to be a directed
17 threat or harassment, that -- that could be an
18 option, to -- to ensure the safety and security of
19 either scientists or -- or people at the
20 institution.

21 Q. Okay. Do you believe the manner in
22 which Jordana handled this, you know, banning
23 comments because it was harassment, do you believe
24 that that was proper?

25 A. Again, I don't see the posts. I don't

1 really have the -- the sort of full thread to know
2 what she was reacting to.
3 But, in general, again, the consultation
4 between the animal program and our -- our security
5 has been important for the -- the protection of
6 our -- our faculty and staff.

7 Q. Okay. Okay.
8 MS. FARLEY: Let's move on to UW0626,
9 please.

10 (Exhibit 63 was marked for
11 identification and is attached to the
12 transcript.)

13 BY MS. FARLEY:

14 Q. Okay. This has been marked as
15 Exhibit 63. It's a -- an e-mail with the subject
16 line "Social comment management update," and it's
17 from Nate Moll.

18 Do you see that?

19 A. Uh-huh. Yes.

20 Q. Okay. Now, I'll represent to you the
21 lawsuit in this case was filed on February 10th of
22 2021, and here this e-mail is dated February 11th
23 of 2021.

24 And Nate Moll e-mails Jason Gohlke,
25 Kristina LeVan and Nick -- Nick Heynen saying that

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1 he'd like to simplify things within the team and
2 reassign all Facebook and Instagram comment
3 moderation duties to himself. And he says they're
4 receiving this message because they're a current
5 account manager for @UWMadison.

6 What does it mean to be a current
7 account manager?

8 A. Yeah. So during the period of the
9 pandemic, like I referenced earlier, the
10 institution not only had the obligation to
11 provide, you know, a wide -- or a large amount of
12 public information, which we disseminated over
13 social media, but we also received, likely, you
14 know, thousands -- or tens of thousands of
15 comments, you know, related to, you know,
16 different issues in the news in 2020; the
17 pandemic, George Floyd, Jacob Blake situation in
18 Kenosha, the election. And so we -- there was a
19 point, and I don't recall specifically when this
20 was, but that, you know, we basically understood
21 that it was unmanageable for just a person or two
22 to, you know, fully deal with the things that
23 needed to be posted across our social properties
24 but also handle, you know, response, you know,
25 when there were specific questions about our

94

1 policies with regard to the pandemic or
2 moderation.

3 And so the solution to this problem was
4 to give access to the account to the three
5 individuals on the "to" line of this e-mail
6 message, and basically expand their duties to
7 occasionally pitch in and assist Nate.

8 And so I think what this -- this e-mail
9 is saying is that they could continue to post, but
10 in the occasions where they were being asked to do
11 any content moderation, he's directing them to no
12 longer do so.

13 Q. Okay. Okay.

14 And what departments are Jason Gohlke,
15 Kristina LeVan and Nick Heynen a part of?

16 A. So Jason and Kristina are both also in
17 University Communications.

18 As I mentioned previously, Nick Heynen
19 is a social media specialist who works in the
20 division of Diversity, Equity and Educational
21 Achievement.

22 Q. Okay. Now, did the lawsuit raise
23 concerns within the department that employees
24 responsible for moderation had been doing it
25 inappropriately and that's why they limited --

95

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25 (97 to 100)

	97		99
1	wanted to limit it to Mr. Moll going forward?	1	would be fine. How long would you like to take?
2	A. You know, I think at this point Nate was trying to, as he suggests in the message, simplify things. So those were not duties or responsibilities that anyone else would need to take on, other than himself.	3	MS. LODAHL: Well, I do want to look
3		4	into the document that we discussed earlier
4		5	and, you know, see if that's something that
5		6	should be provided before we wrap up this deposition today.
6		7	Would 45 minutes be appropriate?
7	Q. Was the social media statement being enforced uniformly, to your knowledge?	8	MS. FARLEY: Yeah.
8		9	Does that work for you, Mr. Lucas?
9	A. You know, again, we received tens of thousands of comments, you know, and many of which may have come from animal advocates. I believe on a best-effort basis, that they -- you know, they did the best they could to -- to uniformly moderate comments.	10	THE WITNESS: Yep.
10		11	MS. FARLEY: Okay. Great.
11		12	Well, why don't we round up and say 1:15
12		13	Central that we resume.
13		14	MS. LODAHL: Perfect.
14		15	THE VIDEOGRAPHER: We're going -- are
15	Q. Okay. Okay.	16	you going off now?
16	Now, why was Mr. Moll selected to be the one to moderate the comments, and then with you and Mike as backup support?	17	MS. FARLEY: Yes.
17		18	THE VIDEOGRAPHER: We're going off the record at 12:26 p.m. Central Time.
18	A. I mean, his primary function is to be the -- the social media manager.	19	(Luncheon Recess.)
19		20	THE VIDEOGRAPHER: We're going back on the record at 1:16 p.m. Central Time.
20	Mike is responsible for a wider range of duties that involve news distribution and editing, and I have a wider range of duties beyond that to communicate on, you know, any number of topics, including with the -- the media or public.	21	24 BY MS. FARLEY:
21		22	25 Q. All right. Good afternoon, Mr. Lucas.
	98		100
1	Q. Okay. Okay.	1	Back on the record here.
2	So what did it mean that you would provide, quote, "backup support" to -- to Nate?	2	MS. FARLEY: Joe, could you go ahead and pull up UW0341, please.
3		3	REMOTE TECHNICIAN: 3-4-1, Counselor?
4	A. The three of us, I think, are -- you know, had the most experience and sort of the most knowledge on the accounts, so we opted to, you know, again, simplify and leave most of that duty with him.	4	MS. FARLEY: Yes.
5		5	REMOTE TECHNICIAN: Thank you.
6		6	(Exhibit 64 was marked for
7		7	identification and is attached to the
8		8	transcript.)
9	Q. Okay. So if he needed something, he could come to you for backup support?	9	10 MS. FARLEY: Okay. Thank you.
10		11 BY MS. FARLEY:	
11	A. Yeah, with a -- a question or, you know, a -- or if -- you know, frequently there would be cases where -- I think, you know, nights and weekends or things where he asked Mike to -- to conduct either posting or moderation on his behalf.	12	12 Q. Okay. So this document has been marked as Exhibit 64. And, generally speaking, it appears that we're looking at a comment section to 15 an Instagram post by the UW Madison.
12		13	16 Is that correct?
13		17	A. Yes.
14		18	18 Q. Okay. Now, some of the comments are grayed-out or hidden. Is that correct as well?
15		19	20 A. Yes.
16		21	21 Q. I'll represent to you that the university produced these comment sections as 22 instances of comments that were moderated by 23 university employees.
17	Q. Okay.	24	25 So the yellow box means that they were
18	MS. FARLEY: Joe, could we pull up UW0341, please.		
19			
20	MS. LODAHL: Counsel, I wonder if now might be a good time to take a lunch break for the group. I'm not sure where you are at in your outline. We're getting on to 12:30 here in Wisconsin.		
21			
22			
23			
24			
25	MS. FARLEY: Sure. Sure. Yeah. That		

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26 (101 to 104)

1 auto-moderated by the auto moderation feature as
2 opposed to manually hidden, for example.

3 So we're looking here at -- in the
4 yellow box at a couple comments, one from
5 therealandrewpeterson and one from CFacktor. Take
6 a moment to familiarize yourself with these
7 comments.

8 Have you had a chance to read them?

9 **A. Yes.**

10 Q. Okay. Are those comments considered
11 off topic, in your opinion?

12 **A. I -- I mean, I generally am not the one
13 making, you know, those moderation decisions, so I
14 would defer to Nate and Mike.**

15 Q. But you have read the off-topic legal
16 guidance memo; is that correct?

17 **A. Yes.**

18 Q. So if you had to apply it here, in this
19 instance, would you say that they're off topic or
20 on topic?

21 **A. I guess, if I was going to apply
22 these -- I mean, sometimes it's very difficult to
23 tell what specifically, you know, the -- the
24 posters are referencing.**

25 **So I guess -- I mean, I guess Andrew**

101

1 about earlier, it's true that if a comment is off
2 topic, it does not have to be moderated; is that
3 correct?

4 **A. That's correct.**

5 Q. Okay. Is the fact that a post is
6 political, is that enough to remove the -- and I
7 should say "comment," not "post."

8 Is the fact that a -- a comment is
9 political enough to have it moderated?

10 **A. No.**

11 Q. There has to be something more?

12 **A. It would have to comply with the -- the
13 social media statement or the interim guidance
14 most recently.**

15 Q. Is being critical of the university
16 enough for the UW Madison to remove the post?

17 **A. No.**

18 Q. And would you say that
19 therealandrewpeterson's post was critical of the
20 university?

21 **A. I guess, I can't make a value judgment
22 on that. It's -- it's really kind of hard to
23 parse to my eye. Yeah.**

24 Q. He's saying he's so glad that he forever
25 left the UW -- "this place," I should say, which

103

1 **Peterson and CFacktor are -- yeah, I -- I don't
2 have an opinion on Andrew Peterson. I guess
3 CFacktor looks like it would be on topic because
4 it's referencing a protest.**

5 Q. Okay.

6 **A. I have a hard time sort of understanding
7 Steve_go_wild and sort of -- that seems like
8 that's referencing a previous comment and not the
9 actual post itself.**

10 Q. Yeah, we can -- I -- apparently, the
11 blue box doesn't reflect any moderation decision.
12 It's just the yellow box that would reflect that
13 the comments were moderated.

14 In terms of determining what's on or off
15 topic, he said it's sometimes kind of hard to tell
16 what the posters are getting at.

17 Is it kind of a discretionary decision
18 in terms of on or off topic?

19 **A. Well, very much so in the fact that, you
20 know, again, the staff is trying to moderate,
21 like, literally hundreds or thousands of -- of
22 comments and, you know, apply consistently a
23 standard of -- of on or off topic.**

24 Q. And going back to that memo, that
25 guidance memo that we had referenced and spoken

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1 presumably refers to the UW.

2 **A. He's so glad that he left with a degree
3 and that he had a positive experience. I mean, I
4 guess I -- it sort of illustrates the challenge
5 that I see with -- with trying to -- you know, in
6 making these decisions.**

7 Q. Right.

8 **A. "I'm so glad I graduated," positive
9 statement.**

10 Q. Okay. So it -- fair to say that it --
11 lots of comments are open to interpretation?

12 **A. Yes.**

13 **And they're evaluated on a case-by-case
14 basis.**

15 Q. In general, under UW's social media
16 statement, though, the university has the right to
17 remove a post for any reason; is that correct?

18 **A. Yes.**

19 Q. Okay.

20 MS. FARLEY: Now, let's go to UW0313,
21 Joe, please.

22 REMOTE TECHNICIAN: Please stand by.
23 (Exhibit 65 was marked for
24 identification and is attached to the
25 transcript.)

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27 (105 to 108)

	105		107
1 BY MS. FARLEY:		1 identification and is attached to the	
2 Q. Okay. This has been marked as		2 transcript.)	
3 Exhibit 65, and it appears to be an Instagram post		3 MS. FARLEY: Okay. Thank you.	
4 by the University of Wisconsin-Madison with a		4 BY MS. FARLEY:	
5 couple comments beneath it. Is that accurate?		5 Q. Here we've got a document that's been	
6 A. Yes.		6 marked as Exhibit 66, and it appears to be a	
7 THE WITNESS: Could -- could you magnify		7 Facebook -- a screenshot of a portion of a	
8 the -- the grayed-out box is hard to read.		8 Facebook post by UW Wisconsin-Madison and a	
9 Thank you.		9 portion of the comment section as well. Is that	
10 MS. FARLEY: And, Joe, if you could just		10 accurate?	
11 zoom out a little bit so we can see the		11 A. Yes.	
12 original post as well, that would be great.		12 I can't actually read the comments,	
13 BY MS. FARLEY:		13 though, at that size.	
14 Q. Okay. So it looks like the post here --		14 Q. Okay.	
15 well, first of all, do you recall ever reviewing		15 MS. FARLEY: Joe, if you could zoom in a	
16 the specific post or comment by Ms. Krasno?		16 little bit.	
17 A. I did not.		17 Q. Before you do, though, the title of the	
18 Q. Okay. So Ms. -- excuse me.		18 post is "COVID-19 Model Quantifies of	
19 The post is talking about Scout, a		19 Region-Specific Social Distancing Orders."	
20 7-year-old Golden Retriever, and his oncologist at		20 MS. FARLEY: Thank you. Yeah. Now we	
21 the University School of Veterinary Medicine, who		21 can actually zoom in on the actual grayed-out	
22 had a very rare form of canine cancer and he was		22 portions, which are a little harder to read.	
23 treated by UW.		23 Q. Now, actually, I want to focus on the --	
24 And then Ms. Krasno's post says, "It is		24 so it looks like there were yellow boxes around	
25 really quite hypocritical the compassion shown to		25 some grayed-out comments that were auto moderated	
	106		108
1 this dog while thousands of animals languish in		1 and then we have a long post here that was not	
2 laboratories at UW Madison. I really wish you		2 moderated, by Hani Hosain, and he asks, "Do you	
3 would acknowledge this and do something about"		3 have experience certificates equivalencies with a	
4 that -- "about it."		4 university degree?"	
5 Did I read that correctly?		5 Is that accurate?	
6 A. Yes.		6 A. Yes.	
7 Q. Now, is Ms. Krasno's comment on topic or		7 Q. In your opinion, is this post on topic	
8 off topic, in your opinion?		8 or off topic?	
9 A. I would judge Ms. Krasno's comment here		9 A. This would appear to be off topic.	
10 to be on topic.		10 Q. Okay. And, yet, it was not moderated?	
11 Q. Okay. And, yet, it was still hidden in		11 A. That appears correct, yes.	
12 this instance; is that correct?		12 Q. Okay. And in this instance, in fact,	
13 A. That appears correct, yes.		13 the posting about animal testing was moderated?	
14 Q. So it appears that the on-topic and		14 A. Yes.	
15 off-topic criterium are not necessarily uniformly		15 Q. Okay.	
16 enforced; is that accurate?		16 MS. FARLEY: If we could move on to	
17 A. Again, I, you know, would probably point		17 UW0317.	
18 to the overall scale of the endeavor and just, you		18 REMOTE TECHNICIAN: Please stand by.	
19 know, thousands of comments that are received. I		19 (Exhibit 67 was marked for	
20 wouldn't expect that we would, you know, perfectly		20 identification and is attached to the	
21 apply that standard, although I know they -- they		21 transcript.)	
22 try to do so in every case.		22 BY MS. FARLEY:	
23 MS. FARLEY: Joe, let's move on to		23 Q. Okay. We are looking at what has been	
24 UW0297, please.		24 marked as Exhibit 67. And this appears to be a	
25 (Exhibit 66 was marked for		25 screenshot of a Facebook post by the University of	

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28 (109 to 112)

	109		111
1 Wisconsin-Madison and a portion of the comment 2 section. Is that accurate?		1 auto moderation.	
3 A. Correct.		2 A. So, I mean, the -- the point that I was 3 going to make is just it's hard to know because 4 these posts are sort of living things that -- you 5 know, if and when a staff member would come 6 through and review it and do a manual moderation, 7 if somebody would then post additional afterwards.	
4 Q. Okay. And this particular Facebook post 5 is entitled "Badger Talks, Vaccine Arrival is 6 First Step."		8 I guess this case is an auto moderation 9 and it appears that, you know, Lucky Dave was not 10 moderated when he should have been.	
7 Is that accurate?		11 Q. Okay. But again, I guess, going back to 12 the -- this interim social media guidance memo 13 that we discussed earlier, the fact that something 14 is off topic doesn't mean that it has to be 15 necessarily removed or moderated; is that fair?	
8 A. Yes.		16 A. That's correct.	
9 Q. Okay. And I -- I don't know if you 10 recall this specific post or having seen this 11 post.		17 Q. Okay. So the efforts of the -- of an 18 individual moderator on any given day, their best 19 efforts, do you think that constitutes best 20 efforts for the university as a whole?	
12 A. I do not.		21 A. I'm sorry. I don't understand your 22 question.	
13 Q. Okay. And then down below, Lucky Dave 14 comments, "Can't believe the UW still practices in 15 the dark ages with coal power and styrofoam cups. 16 Much better schools out there than these 17 dinosaurs."		23 Q. It -- it seems like moderation in terms 24 of off topic versus on topic in -- for example, 25 kind of depends on the individual's whims or	
18 Now, would you consider that to be on 19 topic or off topic?			
20 A. It would appear to be a negative 21 off-topic post.			
22 Q. Okay. And I notice you specifically 23 said negative. Is that important when moderating? 24 Is that an important consideration?			
25 A. No. I -- it's an off-topic post.	110		112
1 Q. Okay. And, yet, it was not moderated in 2 this instance. Is that accurate?		1 specific, you know, discretion or judgment on any 2 given day.	
3 A. Correct.		3 A. I mean, I would argue that, you know, 4 people have a number of different tasks that they 5 perform on any sort of shift when they're working 6 on social media and that, you know, it would be 7 everyone's goal to, you know, uniformly apply the 8 standard. You know, there may be some cases 9 where, you know, people are -- are busy with other 10 activities on a particular day and, you know, 11 they -- they may not get to -- to moderation as -- 12 you know, as much as they should or could on any 13 given post or day.	
4 Q. Okay. And, in fact, it appears that a 5 post regarding animal testing, specifically on 6 monkeys, was, in fact, moderated in this instance.		14 Q. Do you think the university is trying to 15 do too much by moderating off topic versus on 16 topic?	
7 Is that accurate?		17 A. I think the university is trying to do 18 the best it can do, and the staff are trying to do 19 the best they can do under the circumstances, 20 which -- you know, the scale of which I don't 21 think is -- is replicated here of the number of 22 comments or posts that we would have been 23 receiving, you know, in any given time period.	
8 A. Yes.		24 Q. Okay. Okay.	
9 Q. Okay. So the best efforts you were 10 talking about with respect to the university 11 trying to use its best efforts to moderate 12 whenever possible given the volume of comments, it 13 is, in reality, just kind of a discretionary 14 decision up to the individual moderator on any 15 given day; is that fair to say?		25 MS. FARLEY: Let's go to Exhibit UW0218,	
16 A. I mean, they use their -- their best 17 effort.			
18 I mean, I -- I guess the one point that 19 I would make is that it's kind of impossible to 20 know, like -- I -- I guess as a point of 21 clarification, can you tell me about the gold box? 22 Is that auto moderation or is that manual 23 moderation? I'm not familiar with the color 24 codes.			
25 Q. The gold -- yeah, the gold refers to			

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29 (113 to 116)

	113		115
1	please.	1	detail about that?
2	(Exhibit 68 was marked for	2	A. I believe he's also posted content
3	identification and is attached to the	3	related to animal research, along with Ms. Krasno.
4	transcript.)	4	Q. Okay. And how did you first become
5	BY MS. FARLEY:	5	aware of Mr. Hartkopf?
6	Q. Okay. This document has been marked as	6	A. I don't specifically know, but I
7	Exhibit 68. It appears to be a Facebook	7	remember hearing his name mentioned, potentially
8	screenshot of the University of Wisconsin-	8	around the same time period, as -- as someone who
9	Madison's Facebook page and a posting. We don't	9	frequently posted.
10	see the original post here. We just see a comment	10	Q. Okay. Okay. Was Mr. Hartkopf ever
11	area, and it looks like the yellow box indicates	11	banned from the -- UW's Facebook page, if you
12	auto moderation and the gray box apparently does	12	know?
13	not mean anything or nothing relevant to our	13	A. I don't know.
14	purposes, apparently.	14	Q. Okay. What about UW's Instagram?
15	So this particular animal rights posting	15	A. I don't know the answer to that either.
16	was allowed to remain. Is that accurate?	16	Q. If an individual were to be banned or to
17	MS. LODAHL: Point of clarification,	17	be -- I think the right word is "restricted" from
18	Counsel. You just represented in your	18	an account, would you be notified?
19	question -- and I -- I don't know if you did	19	A. So I believe those are two separate
20	that on the previous question either, but you	20	terms that -- account restrictions, in my
21	said that a yellow box indicates auto	21	understanding, are that people are able to
22	moderation.	22	continue to post and then have their posts -- or,
23	In the updated information that we	23	I'm sorry, specifically approved by a moderator.
24	provided to you about the color-coding system	24	I assume users also can be banned, but in -- in
25	on Facebook, the yellow or red boxes don't	25	all cases, I -- I don't think I would be
	114		116
1	indicate auto versus manual.	1	specifically notified.
2	MS. FARLEY: Oh, that's right. I'm	2	Q. Okay. That might be up to the
3	sorry. Versus Instagram.	3	discretion of Mr. Moll or Mr. Klein?
4	MS. LODAHL: Right.	4	A. Correct.
5	MS. FARLEY: I apologize. Yes.	5	Q. Okay. Okay.
6	MS. LODAHL: Yep. So --	6	Do you know if there is a list of people
7	MS. FARLEY: Okay.	7	anywhere that have been either -- what is the
8	MS. LODAHL: So the post is moderated,	8	correct term here? And not just banned, but --
9	but we don't know if it is auto or manually.	9	not moderated, but what is the term you just used?
10	MS. FARLEY: Okay.	10	A. I believe it's -- well, at least on
11	THE WITNESS: All right.	11	Instagram, I believe it's to have their account
12	MS. FARLEY: Thank you for clarifying	12	restricted.
13	that.	13	Q. Restricted. Thank you. Yes. Tip of my
14	MS. LODAHL: Sure.	14	tongue.
15	BY MS. FARLEY:	15	Is there a list anywhere of those
16	Q. Did you get that, Mr. Lucas?	16	people, who have been restricted or banned?
17	A. Yes, I understand.	17	A. No, not that I've ever seen.
18	Q. Okay. So in this situation, it -- the	18	Q. Okay. To your knowledge, has Ms. Krasno
19	post by Jesper Espére has been moderated in some	19	ever been banned from Facebook or Instagram?
20	fashion, auto or manually, and the post by Ryan	20	A. I am not aware.
21	Hartkopf has not.	21	Q. Okay. Are banned people mostly those
22	Are you familiar with a Ryan Hartkopf?	22	whose posts or comments express views that are,
23	A. I have heard his name in relation to	23	for whatever reason, critical of the university?
24	Ms. Krasno.	24	A. I -- I don't think that there's a --
25	Q. Okay. Can you give a little bit more	25	well, first, I don't think there's a list. I've

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30 (117 to 120)

	117		119
1 never seen a list of people, and -- so I -- you 2 know, I would be hard-pressed to describe, you 3 know, people who were on something that I -- I'm 4 not aware of.		1 proposed statement? 2 A. I do not.	
5 Q. Okay. 6 MS. FARLEY: Let's go to UW0730, please. 7 (Exhibit 69 was marked for 8 identification and is attached to the 9 transcript.) 10 MS. FARLEY: Okay. Thank you, Joe. 11 BY MS. FARLEY: 12 Q. If you could scroll all the way down -- 13 or -- first of all, this has been marked as 14 Exhibit 69. And this is an e-mail chain with the 15 title "Re: Draft statement on Facebook comments." 16 MS. FARLEY: And then, Joe, if you could 17 scroll down to the bottom, to the first 18 e-mail in the chain. 19 Q. Do you see a message from Jordana Lenon 20 at the WNPRC stating that there have been some 21 posts by Ryan Hartkopf and Madeline Krasno today 22 on their Facebook page regarding hiding comments 23 on social media? 24 Is that accurate? 25 A. Yes.		12 Q. Okay. 13 MS. FARLEY: Let's go to UW0429, please. 14 (Exhibit 70 was marked for 15 identification and is attached to the 16 transcript.) 17 BY MS. FARLEY: 18 Q. This document has been marked as 19 Exhibit 70. And here it appears we have a 20 screenshot of a Microsoft Teams chat with 11 21 participants. And the participants that we can 22 see chatting here are Nick H., presumably Nick 23 Heynen; John L., I'm assuming that's you -- is 24 that accurate? 24 A. Yes. 25 Q. And Nate M., which is -- I'm assuming	
1 Q. And Ms. Lenon says that she prepared a 2 draft statement that she wanted to address about 3 these publicly-voiced concerns about our page 4 head-on and openly. 5 Ultimately -- 6 MS. FARLEY: If you scroll up a little 7 bit, Joe. 8 Q. -- Chris Barncard forwards this to Legal 9 with a copy to you and Kelly Tyrrell. 10 And then, if you scroll all the way up, 11 you'll see, you know, further communication about 12 this, assuming this proposed statement. 13 MS. FARLEY: If you could continue 14 scrolling up, Joe, please. Thank you. 15 Q. It's kind of a long chain here. 16 But ultimately, do you know -- since 17 we -- we can't see -- and we don't want to know 18 any privileged material, but do you know what the 19 outcome of Ms. Lenon's state- -- proposed 20 statement was? 21 A. I do not. 22 And clearly I was, I think off -- 23 somehow got dropped off the chain before it was -- 24 whatever issue was settled. 25 Q. Do you remember reviewing Ms. Lenon's	118	1 that's Nate Moll; is that correct? 2 A. Yes. 3 Q. And here, Mr. Heynen asks you whether 13 4 posts about Betsy Schoeller over a couple of days 5 meant the poster should be banned; is that 6 correct? 7 A. Yes. 8 Q. And you then say "ban, pls," please. 9 What were your reasons for ordering the 10 ban? 11 A. I don't remember this specific instance. 12 It could have been that she was -- Betsy Schoeller 13 was posting some sort of content that may have 14 been abusive or -- yeah. I don't actually 15 remember this one. 16 Q. Okay. But you were consulted on a 17 particular banning decision in this instance; is 18 that accurate? 19 A. Yes. 20 Q. And then, further in the chain, someone 21 asks, "Are there specific things on what to ban 22 for, or is it case-by-case? I see another spam 23 comment promoting cheating for pay ('academic 24 writing services')." 25 And Mr. Moll responds, "More of a	120

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	121		123
1 case-by-case. The one you just brought up is 2 grounds for banning."		1 chat portion between yourself and Nate Moll on May 2 13th, 2021. Is that accurate?	
3 Is that accurate?		3 A. Yes.	
4 A. Yes.		4 Q. And he says, "Heads up that we're	
5 Q. So here, this particular poster was 6 asking for guidance on banning, and he was not 7 directed to any particular guidance, but it was a 8 case-by-case determination in Mr. Moll's words. 9 Is that accurate?		5 getting 'Free Palestine' comments on Facebook. 6 Due to their off-topic and political nature, I've 7 been hiding them."	
10 A. Yes.		8 You say, "Okay - Keep us updated, 9 thanks."	
11 Q. Okay. Are there any factors that you 12 look to when determining whether to ban a 13 particular user?		10 Is the fact that a topic is political in 11 nature sufficient to hide it or to remove the 12 post?	
14 A. Again, I'm generally not making 15 decisions about it.		13 A. I see him citing off-topic nature.	
16 I see that I'm on this thread, and I can 17 only imagine that there was some sort of violence 18 or abuse of content here that sort of resulted in 19 it being escalated to me.		14 Q. If -- if a topic is political in nature, 15 is that a reason to hide a post on Facebook or 16 Instagram?	
20 Q. Okay. So there aren't really any 21 specific factors that you look for in determining 22 this?		17 A. Not if it's on topic.	
23 A. Again, I think we just considered it on 24 a case-by-case basis.		18 Q. So what if a post was related to voting 19 and someone then post -- tried to post something 20 about pro -- vote for Donald Trump, and Trump is 21 an auto moderated word, how would they express 22 their viewpoint in that instance?	
25 Q. So how do you ensure uniformity in		23 A. We wouldn't generally post information 24 about candidates or choices in the election.	
1 banning across all public comments?	122	25 Q. If a post was about get out and vote,	124
2 A. I think that the staff, on a best-effort 3 basis, tries to apply the policy; and if there are 4 people who are, you know, frequently or 5 egregiously in violation of the -- I'm sorry -- 6 rather, the statement or the interim guidelines, 7 that, you know, they -- they may have their 8 account restricted.		1 here's your polling place, sign up here, register 2 to vote, and someone wanted to advocate for their 3 particular viewpoint on a candidate, would they be 4 able to do so?	
9 Q. Okay.		5 A. I -- I have a hard time answering that 6 in a hypothetical, without seeing the post or 7 the -- the specific comment in that situation.	
10 MS. FARLEY: Let's move on to UW0396, 11 please.		8 Q. You can do your best to answer the 9 question.	
12 (Exhibit 71 was marked for 13 identification and is attached to the 14 transcript.)		10 A. Yeah, I'm really sorry, I don't know how 11 I would do that without seeing the actual post in 12 question.	
15 MS. FARLEY: And what exhibit number is 16 this, Joe?		13 Q. It's a hypothetical.	
17 REMOTE TECHNICIAN: Please stand by. 18 It will be marked as Exhibit 71.		14 A. Yeah.	
19 MS. FARLEY: Pardon? I didn't hear you.		15 I mean, I -- again, I would -- I think 16 you might construe a difference between, you know, 17 the actual information we would be trying to 18 provide about polling or a voter ID or voter 19 registration as different than someone advocating 20 about a specific candidate and -- you know, again, 21 because I'm trying to answer in a hypothetical -- 22 I think we might be able to see that advocacy for 23 a specific candidate as a comment on the post 24 would be off topic from information about how to 25 obtain a ballot or a voter ID.	
20 REMOTE TECHNICIAN: I apologize. It 21 will be marked as Exhibit 71.			
22 MS. FARLEY: 71. Thank you.			
23 BY MS. FARLEY:			
24 Q. So we're looking here at Exhibit 71, and 25 it appears to be a snippet of a Microsoft Teams			

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32 (125 to 128)

	125		127
1	Q. Okay.	1 activities? Was it -- you know, PETA posts many	
2	MS. FARLEY: Let's go to UW0449, please.	2 different topics, many thousands of different	
3	(Exhibit 72 was marked for	3 comments on UW content.	
4	identification and is attached to the	4 Q. If -- assume it was -- if it was about	
5	transcript.)	5 UW researchers killing chimpanzees, for example,	
6	MS. FARLEY: Okay. Thank you.	6 would that be on topic?	
7	BY MS. FARLEY:	7 A. If it was specifically about chimpanzees	
8	Q. We are looking at what has been marked	8 and specifically on the chimpanzee sanctuary	
9	as Exhibit 72. It appears to be another	9 mystery disease post, I would guess that it was on	
10	10 screenshot of Microsoft Teams chat with 11	10 topic.	
11	11 participants. And the chat includes posts by Nate	11 Q. Okay. Now, at the bottom of the chat,	
12	12 Moll and then another unidentified individual. Is	12 whoever is the social media lead that day says	
13	13 that accurate?	13 that the plan includes, quote, "monitor" animal --	
14	A. Yes.	14 "anti-animal research comments (big thanks to Nate	
15	Q. Now, one of the things Mr. Moll mentions	15 for covering this this morning)."	
16	16 is that today they're featuring something	16 Why is there a specific bullet point for	
17	17 regarding "chimpanzee sanctuary mystery disease."	17 monitoring anti-animal research comments here?	
18	18 Is that accurate?	18 A. I don't know. I did not post this	
19	A. Yes.	19 comment.	
20	Q. US -- UW news published an article on	20 Q. Is it fair to say the University	
21	21 2/10/21 titled "Mystery Disease at Sierra Leon	21 specifically pays attention to anti -- anti-animal	
22	22 Chimpanzee Sanctuary Linked to Bacterial	22 research comments?	
23	23 Infection," and it discussed the findings of UW	23 A. To the extent that they're off topic on	
24	24 researchers who identified a mystery illness that	24 posts, yes.	
25	25 killed a bunch of chimps.	25 Q. But there's no special attention paid to	
	126		128
1	Does that ring a bell?	1 anti-animal research postings?	
2	A. That -- I don't recall that	2 A. I would probably judge that comments	
3	specifically, but that does sound like, yes,	3 related to animal research would be the highest	
4	content that we would publish.	4 traffic comment that we receive across the	
5	Q. Now, are PETA comments about UW	5 accounts.	
6	researchers killing primates off topic in that	6 Q. Okay. And is that why it warranted a	
7	situation?	7 separate bullet point of monitoring in this	
8	A. I guess it's hard to know specifically,	8 instance?	
9	like, what the PETA comment is in this case that	9 A. I -- I mean, I -- I could think that	
10	10 was being referenced.	10 the -- the volume would be one factor that could	
11	Q. Okay. Mr. Moll references a wave of	11 explain that, yes.	
12	12 50-plus PETA comments on the Instagram post, and	12 Q. Is it fair to say the university	
13	13 he restricted all accounts and deleted the posts.	13 specifically pays attention to animal rights	
14	Does it sound like he performed, you	14 campaigns?	
15	know, a careful case-by-case analysis of each	15 A. Yes. As we discussed earlier today, I	
16	comment in this instance?	16 think in support of trying to provide accurate	
17	A. I couldn't say without sort of	17 information and combat misinformation provided by	
18	understanding more of, you know, was it posted on	18 certain groups, I would say that we are interested	
19	19 the Vile (phonetic) List Associate's Award or	19 in -- I mean, comments and campaigns that would,	
20	20 other posts that were off topic?	20 you know, be on a wide range of topics, but I	
21	Q. Okay. If it was posted on the	21 think, you know, given the -- the prevalence of	
22	22 chimpanzee sanctuary mystery disease, would it be	22 anti-research or anti-animal model comments, yes.	
23	23 on topic?	23 Q. You've talked a little bit today about	
24	A. That's a good question. I mean, was the	24 the importance of combating, you know, inaccurate	
25	25 PETA post about cats? Was it about vegan	25 information and providing accurate information to	

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33 (129 to 132)

1 the public about animal research.
2 Have you done any of your own research
3 to determine what information is or is not, in
4 fact, accurate?
5 A. I don't have to do my own research
6 because we employ hundreds, if not thousands of
7 people who do that work here for the institution.
8 Q. But it's your job to monitor those who
9 moderate comments, and they're making a
10 determination whether a comment is -- is or is not
11 accurate.
12 So what research have they or have you
13 done to ensure that when you're making that
14 decision, you're not blocking accurate
15 information?
16 A. I'm sorry. I don't follow. Could you
17 repeat the question?
18 MS. FARLEY: Madam Court Reporter, could
19 you repeat back the question.
20 THE COURT REPORTER: Yes, ma'am, just a
21 moment.
22 (Record read back by Stenographer.)
23 THE WITNESS: Thank you.
24 A. Yes. I mean, I would expect that the
25 staff that are, you know, posting particular

129 1 MS. FARLEY: Okay. Thank you.
2 BY MS. FARLEY:
3 Q. We are looking at what has been marked
4 Exhibit 73, and it is another Microsoft Teams
5 screenshot of a chat involving 11 participants.
6 Is that accurate?
7 A. Yes.
8 Q. So we see a chat here between, I believe
9 it's Mike Klein, yourself and Nate Moll. Is that
10 accurate?
11 A. Yes.
12 Q. And in this chat, you instruct Mr. Klein
13 to ban an Andrew Clemens for posting "Shame on you
14 WM, free the apes now," on 20 different posts.
15 Is that accurate?
16 A. Yes.
17 Q. Was there a lesser-restrictive
18 alternative to outright banning that you could
19 have considered?
20 A. Not aware in this particular case, no.
21 Q. Could you have hidden his comments, for
22 example, instead of banning him from the forum?
23 A. Yeah. I mean, I guess that's possible
24 in this case. I'm not a hundred percent sure how
25 the -- the mechanics on the Facebook restriction

130 1 pieces of content are sort of aware of what that
2 content is and, you know, to the extent that, you
3 know, there are, you know, questions that are
4 posted about the specific content, you know,
5 sometimes those are directly answered, and I would
6 expect that they -- you know, they understand
7 the -- the information that -- that's being
8 shared.
9 Q. Is it fair to say that Kelly Tyrrell and
10 Chris Barnard are the ones who spearhead
11 defending the university's animal research program
12 against criticism from outside groups?
13 A. They, among others, yes.
14 Q. Okay. And who -- who would those others
15 be, in general?
16 A. Allyson Bennett, I think you mentioned
17 previously Nadine Connor. You know, others who
18 are sort of leaders on campus in the research
19 enterprise.
20 Q. Okay. All right.
21 MS. FARLEY: Let's go to UW -- UW688,
22 please.
23 (Exhibit 73 was marked for
24 identification and is attached to the
25 transcript.)

132 1 worked, but it's possible that there was a -- a
2 way to hide those posts.
3 Q. Do you have any concerns, personally,
4 about the practice of banning a user from Facebook
5 or Instagram?
6 A. I mean, in what record?
7 Q. Probably in regard to the First
8 Amendment.
9 A. You know, again, I would say that the
10 team does the best that it can do on a daily basis
11 in sort of evaluating these decisions and making
12 them in the moment, you know, in the face of just
13 thousands and thousands of comments that are sort
14 of being, you know -- that are being kind of
15 posted on a regular basis.
16 Q. Okay.
17 MS. FARLEY: Now, let's go to UW0716.
18 And we're getting near the end, just --
19 just to let people know. We can -- Lynn,
20 should we take a break in a few minutes?
21 Is that document ready or --
22 MS. LODAHL: Yeah. I was just going to
23 suggest that. That would be perfect.
24 MS. FARLEY: Okay.
25 MS. LODAHL: Great. I just want to be

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34 (133 to 136)

	133		135
1	able to send it over by e-mail.	1	relation to an athletics account and an athletics
2	MS. FARLEY: Okay. Yeah. Let's go	2	issue. I guess that's the one piece that I'm
3	to -- actually, we can take a break now, if	3	aware of.
4	that works. And we can keep it to about ten	4	Q. Okay. Did they complain or ever
5	minutes, if you guys want.	5	threaten to sue the university for being banned or
6	MS. LODAHL: Perfect.	6	blocked?
7	THE WITNESS: Sure.	7	A. Not that I'm aware of, no.
8	MS. FARLEY: Okay. Thanks.	8	Q. Okay. Now we can go back to --
9	THE VIDEOGRAPHER: We're going off the	9	MS. FARLEY: Joe, if you wouldn't mind
10	record at 2:07 p.m. Central Time.	10	pulling up UW0716.
11	(Recess in proceedings.)	11	(Exhibit 75 was marked for
12	THE VIDEOGRAPHER: We're going back on	12	identification and is attached to the
13	the record at 2:22 p.m. Central Time.	13	transcript.)
14	BY MS. FARLEY:	14	BY MS. FARLEY:
15	Q. Welcome back, Mr. Lucas. Joe is pulling	15	Q. I apologize, it's hard to read. This
16	up for us our next exhibit, and we'll be marking	16	is -- this is how it was produced to us, so it
17	that.	17	must be how it was processed.
18	(Exhibit 74 was marked for	18	MS. FARLEY: So, yeah, thank you for
19	identification and is attached to the	19	Zooming in, Joe.
20	transcript.)	20	Q. If you look towards the bottom of the
21	BY MS. FARLEY:	21	page with the asterisks, you can see it says,
22	Q. Your counsel has just produced to us	22	"Subject re: Article in today's paper."
23	Exhibit 74, which is a memo regarding Interim	23	Do you see that towards the bottom of
24	Social Media Moderation Guidance, dated February	24	the page?
25	7th, 2022.	25	A. The URL of, like, Madison.com, is that
	134		136
1	Is that accurate?	1	what you're refer- -- referencing?
2	A. Correct.	2	Q. Yes. Yes.
3	Q. Okay. And you had mentioned earlier	3	It says, "Subject, article in today's
4	that this was more regarding Twitter, it was	4	paper. Hi Meredith, you have likely seen this
5	pertaining more towards Twitter; is that right?	5	article."
6	A. That's correct.	6	A. Yes, I see this.
7	Q. Was an individual who was blocked	7	Q. Okay. And it says "UW Madison Sued for
8	making -- after making comments or certain	8	Allegedly Hiding Critical Comments From its Social
9	postings on Twitter?	9	Media Accounts." That's the name of the article.
10	A. So the situation with this was related	10	Do you see that?
11	to another account on campus, an account manager	11	A. Yes.
12	who had a specific question. I believe that they	12	Q. Okay. And if you look at the e-mail
13	had blocked a user on Twitter, who then was	13	message from you at 11:02 a.m. --
14	petitioning to be reinstated and have their	14	MS. FARLEY: It's towards the middle of
15	account unrestricted. And they had asked us for	15	the page, Joe. Perfect. Okay.
16	guidance. And then we had asked for additional	16	Q. -- you send a message to Tina Nielsen
17	guidance from Office of Legal Affairs.	17	and Meredith McGlone, and say that "Any media
18	Q. Okay. And do you know what content they	18	questions or requests can come up to me directly,"
19	had been posting that led them to be banned in the	19	and then you say, if you see towards the middle
20	first instance?	20	right there, it says, "I suspect at the end of
21	A. I don't recall specifically, no.	21	this process, we'll be providing additional social
22	Q. Okay. Were they an animal rights	22	media guidance to campus account managers on
23	activist?	23	content moderation."
24	A. No.	24	Do you see that?
25	It -- I believe it was -- it was in	25	A. Yes.

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35 (137 to 140)

	137		139
1 Q. Did you think at the time that the 2 current guidance on account moderation was 3 inadequate in some way?		1 Is that accurate?	
4 A. As I stated earlier, I -- I said it's 5 possible that in the future we would provide 6 additional interim guidance, finalize the interim 7 guidance or create a social media policy in the 8 future.		2 A. Yes.	
9 Q. And do you believe that what exists now 10 is adequate to inform social media managers about 11 what is appropriate under the First Amendment?		3 Q. Now, it says -- he says the university 4 is getting a lot of negative comments.	
12 A. Yes.		5 First of all, are you the "John" that he 6 mentioned?	
13 Q. Did you have any fear, when you made 14 that comment, that social media managers could be 15 moderating UW accounts in a way that was not 16 permissible?		7 A. Yes.	
17 A. No.		8 Q. Okay. And is it fair to say that the 9 university tries to limit comments critical of the 10 university on its social media pages?	
18 Q. Okay. Would you say it's the purpose of 19 the Communications Department to promote the 20 university and, you know, promote its virtues and 21 show it in a positive light?		11 A. No. I think this one is missing 12 additional context.	
22 A. To share information about the 23 university, but to the extent that -- yeah, it's 24 sharing its virtues or those are positive things, 25 yes.		13 This was a case where the university had 14 opted to remove or -- something that was once a 15 monument in the institution and decided to move it 16 off campus because of its -- there was a name that 17 was associated with it that was extremely racist.	
1 Q. Okay. So along with that would go 2 promotion of the university?	138	18 We publicized the fact that we were 19 doing so. And then I think we were featured on 20 Fox News or additional media sites -- media 21 outlets. And I think -- my memory of this 22 situation was that it was understated and that 23 they were not negative comments, but they were 24 actually racist, abusive, and actively-threatening 25 comments toward the institution because of where	
3 A. Generally, yes.		1 this news was featured.	140
4 Q. Okay. Now, I promise we're nearing the 5 end here. I think we only have a couple documents 6 left.		2 Q. Okay. So setting aside this particular 3 instance, then, does the university -- do the 4 social media managers try to limit and moderate 5 comments that are critical of the university?	
7 MS. FARLEY: But let's go to UW0415 8 please.		6 A. I believe people who are charged with 7 operating social media accounts attempt to follow 8 the guidance of the policy to the extent that 9 they're able in a case-by-case basis.	
9 Q. It's probably a lot easier to read, too.		10 Q. And would the policy allow them to 11 remove comments that are critical of the 12 university?	
10 REMOTE TECHNICIAN: Please stand by. 11 (Exhibit 76 was marked for 12 identification and is attached to the 13 transcript.)		13 A. I mean, if the comments were off topic 14 or otherwise counter to the -- the interim 15 guidance.	
14 MS. FARLEY: Okay. Thank you.		16 Q. Okay.	
15 BY MS. FARLEY:		17 MS. FARLEY: Can we pull up UW0774.	
16 Q. Here we have what has been marked as 17 Exhibit 76. This appears to be a snippet of a 18 Microsoft Teams chat with -- and the person who is 19 posting in this is Peter Kleppin.		18 REMOTE TECHNICIAN: Please stand by. 19 (Exhibit 77 was marked for 20 identification and is attached to the 21 transcript.)	
20 Is that accurate?		22 MS. FARLEY: Thank you.	
21 A. Yes.		23 BY MS. FARLEY:	
22 Q. Okay. And he says, "Just an FYI... 23 getting lots of negative comments on YouTube about 24 the rock removal, so I conferred with John and 25 decided to disable comments."		24 Q. Okay. We are now looking at what has 25 been marked as Exhibit 77, and it appears to be a	

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36 (141 to 144)

1 screenshot of a portion of a Microsoft Teams chat
2 between yourself and another individual and Nick
3 Heynen.

4 Is that accurate?

5 **A. Yes.**

6 Q. Now, it says here that the person you're
7 chatting with is going to be monitoring a PETA
8 protest at noon.

9 Would you consider a protest to be
10 political activity?

11 **A. Potentially, yes.**

12 Q. And it sounds like the PETA protest
13 would be presumably animal rights-related. Is
14 that accurate?

15 **A. Generally so, yes.**

16 Q. Is there a reason that this individual
17 would be monitoring the political activity of PETA
18 activists?

19 **A. Yes, for the reason that I stated
20 earlier.**

21 Q. Can you please elaborate?

22 **A. Sure.**

23 **The comment that I had earlier, that,
24 again, PETA frequently has campaigns that misstate
25 or misinform about the nature of the animal**

1 research that takes place at the institution and
2 so it's in the institution's interest, in this
3 case and others, to ensure that there's accurate
4 information being provided about its activities.

5 Q. And in terms of determining and who
6 determines what information is accurate, would
7 that be left to Kelly Tyrrell and Chris Barnard?

8 **A. Informed by subject matter experts at
9 the institution, correct.**

10 Q. Okay.

11 MS. FARLEY: Let's go to UW0378, please.
12 (Exhibit 78 was marked for
13 identification and is attached to the
14 transcript.)

15 Q. Okay. We're now looking at what has
16 been marked as Exhibit 78. This appears to be a
17 snippet of a Microsoft Teams chat between
18 yourself, Nate Moll, and Kelly Tyrrell.

19 Is that accurate?

20 **A. Yes.**

21 Q. And in the first post you say, "It's
22 Monkey Day, apparently," and you refer to a
23 Twitter link to PETA's Twitter page; is that
24 correct?

25 **A. Yes.**

141

1 Q. Were you monitoring PETA's Twitter
2 account?

3 **A. Again, for the -- the reasons I just
4 stated, it's in the interest of UW Madison to
5 understand the information that's being shared
6 about it and its activities.**

7 Q. So is that a "yes"?

8 Were you monitoring the PETA's Twitter
9 account?

10 **A. Yes. I mean, to the extent that
11 monitoring is subscribed to their
12 publicly-available feeds.**

13 Q. Okay. Okay.

14 Were you alerting Nate Moll and Kelly
15 Tyrrell to be on alert for any negative animal
16 comments?

17 **A. So without seeing the post here, I can't
18 speak to it, but it's entirely possible that PETA
19 had declared it Monkey Day or that PETA had said
20 something that it's, you know, support of monkeys
21 in UW Madison labs. So -- so I believe it was
22 germane to our activities in either of those ways.**

23 Q. In the sense that they should be alert
24 to potential comments on social media?

25 **A. Yeah, that people were -- you know, PETA**

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1 **and others may be talking about the university,
2 its animal research or labs.**

3 Q. Okay.

4 MS. FARLEY: Let's go to UW0696.
5 (Exhibit 79 was marked for
6 identification and is attached to the
7 transcript.)

8 BY MS. FARLEY:

9 Q. Okay. So we're looking at what has been
10 marked as Exhibit 79. This appears to be a
11 snippet or a screenshot of a Microsoft Teams chat
12 with 11 participants, among them Nate Moll,
13 yourself, and Nick Heynen.

14 Is that correct?

15 **A. Yes.**

16 Q. Okay. And it looks like, in response to
17 Ms. -- Mr. Moll's question to you, you want to
18 make him aware of "new PETA inbound today."

19 Can you describe what you meant by that?

20 **A. Yes. In the same way as the -- the last
21 post, that PETA was either sharing information
22 about UW Madison or something relevant to UW
23 Madison research on this particular day.**

24 Q. In the sense that this particular
25 content may need to be moderated?

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37 (145 to 148)

1 **A. Reviewed for accuracy and the likelihood**
2 **that, you know, any time PETA would post or tag us**
3 **in particular posts, that it would result in**
4 **mentions or, you know, other comments to UW**
5 **Madison.**

6 Q. Okay.

7 **A. I would just say in relation to Twitter,**
8 **though, because it's a different platform, there**
9 **is not moderation on -- on Twitter.**

10 Q. Okay.

11 MS. FARLEY: And let's go to UW0719,
12 please.

13 (Exhibit 80 was marked for
14 identification and is attached to the
15 transcript.)

16 BY MS. FARLEY:

17 Q. Okay. This document has been marked as
18 Exhibit 80, and it looks like a portion -- a
19 screen snippet of a portion of Microsoft Teams
20 chat as well from Amy Gill.

21 Do you know who Amy Gill is?

22 **A. Amy Gill is a video producer in**
23 **University Communications.**

24 Q. And what is her relationship to comment
25 moderation on social media?

1 **A. I don't know what -- what she's**
2 **particularly referencing. The only platform that**
3 **she would generally be posting on might be**
4 **YouTube.**

5 Q. Okay. Okay.

6 MS. FARLEY: All right. Lynn, well,
7 that is basically all I have, unless you have
8 anything on your end.

9 MS. LODAHL: I just have one, maybe two
10 questions on a limited point.

11 MS. FARLEY: Okay.

12 MS. LODAHL: Should I go ahead?

13 MS. FARLEY: Yeah, go for it.

14 MS. LODAHL: Okay.

15 EXAMINATION

16 BY MS. LODAHL:

17 Q. All right. So, John, I want to refer
18 back to what was marked as Exhibit 74. I don't --

19 MS. LODAHL: We could -- we could pull
20 it up, I suppose.

21 REMOTE TECHNICIAN: Please stand by.

22 Q. Okay. John, this memorandum is dated
23 February 7th, but that's not the date you received

24 it; correct?

25 **A. That's correct.**

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1 Q. You actually received it from the Office
2 of Legal Affairs on February 23rd; is that right?

3 **A. Yes, that's correct.**

4 Q. Okay. All right.

5 MS. LODAHL: Counsel, I have no further
6 questions.

7 MS. FARLEY: Okay. Thank you,
8 Mr. Lucas.

9 THE VIDEOGRAPHER: If there are no
10 questions, this marks the end of the video
11 deposition of John Lucas. We are going off
12 the record and ending his deposition at 2:43
13 p.m. Central Time.

14 (Off Video Record.)

15 THE COURT REPORTER: Counsel, if you
16 want to let me know what your orders are,
17 please.

18 MS. LODAHL: Sure. This is Attorney
19 Lodahl. We'll take an electronic version of
20 the transcript and a condensed format.

21 THE COURT REPORTER: Thank you.

22 MS. FARLEY: And this is Attorney
23 Farley. We will do the same as well.

24 THE COURT REPORTER: Thank you.

25 REMOTE TECHNICIAN: Ms. Lodahl and

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1 Ms. Farley, would you like the exhibits
2 attached to the transcript?

3 MS. LODAHL: Yes, please.

4 REMOTE TECHNICIAN: That was Ms. Lodahl.
5 And Ms. Farley?

6 MS. FARLEY: Yes.

7 REMOTE TECHNICIAN: Thank you.

8

9

10 AND FURTHER THIS DEPONENT SAITH NOT.
11 SIGNATURE RIGHTS RESERVED.

12 (Videotaped Deposition concluded at 2:44 p.m.
13 Central Standard Time.)

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38 (149 to 152)

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1 STATE OF NORTH CAROLINA:
2 COUNTY OF MECKLENBURG :
3 I, April Reid, Court Reporter and Notary
4 Public in and for the State of North Carolina,
5 and whose commission expires March 4, 2025,
6 do certify that the aforementioned appeared
7 before me, was sworn by me, and was thereupon
8 examined by counsel; and that the foregoing is a
9 true, correct, and full transcript of the
10 testimony adduced.

11 I further certify that I am neither
12 related to nor associated with any counsel or
13 party to this proceeding, nor otherwise interested
14 in the event thereof.

15 Given under my hand and notarial seal in
16 Charlotte, North Carolina, this 22nd day of March,
17 2022.

18 
19 _____
20 _____

21 April Reid, RPR, CRR, Notary Public
22 State of North Carolina, County of Mecklenburg
23 Notary Registration No. 20012210079
24
25

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